

**MEETING NOTICE AND AGENDA**  
**MANSFIELD PLANNING AND ZONING COMMISSION**  
Regular Meeting

**TUESDAY, January 3, 2012 ■ 7:15 PM**

**(or upon completion of Inland Wetlands Agency Meeting)**

Audrey P. Beck Municipal Building ■ 4 South Eagleville Road ■ Council Chambers

**1. Call to Order**

**2. Roll Call**

**3. Approval of Minutes**

- a. December 19, 2011 Meeting

**4. Zoning Agent's Report**

- Monthly Activity Update
- Enforcement Update
- Other

**5. Public Hearings**

**7:15 p.m.**

**Special Permit Application for Fill (PZC File #1306)**

**28 Old Kent Road**

**J. James owner/applicant**

Memos from Director of Planning and Development and Assistant Town Engineer

**7:30 p.m.**

**Special Permit Application, Addition to Eastbrook Mall & Freestanding Building (PZC File #432-6)**

**95 Storrs Road**

**New England Design/applicant**

Memos from Director of Planning and Development, Assistant Town Engineer, Fire Marshal, Design Review Panel, Conservation Commission

**6. Old Business**

- a. **Cease and Desist Order-Freedom Green (PZC File #636-4)**

Memo from Director of Planning & Development

- b. **Interstate Reliability Project**

(Draft letter to be forwarded via email)

- c. **Request to amend Conservation Easement/Hawthorne Lane Subdivision**

Memo from Director of Planning and Development

- d. **Continued Discussion of By-Laws**

- e. **Special Permit Application, Cumberland Farms, (PZC File #1303-2)**  
**643 Middle Turnpike & 1660 Storrs Road**  
**Cumberland Farms, Inc./applicant**  
**(Public Hearing scheduled for 1/17/2012)**

- f. **Other**

**7. New Business**

- a. **Other**

**8. Reports from Officers and Committees**

- a. **Chairman's Report**
- b. **Regional Planning Commission**
- c. **Regulatory Review Committee**
- d. **Planning and Development Director's Report**
- e. **Other**

**9. Communications and Bills**

- a. **12-12-11 Letter from Kurt Heidinger**
- b. **Other**

**10. Executive Session**

Strategy and negotiations with respect to pending claim and litigation, Connecticut General Statutes Section 1-200(6)(B).

**11. Adjournment**

**DRAFT MINUTES**  
**MANSFIELD PLANNING AND ZONING COMMISSION**  
Regular Meeting  
Monday, December 19, 2011  
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), M. Beal, R. Hall, K. Holt, P. Plante (until 7:15 p.m.),  
K. Rawn, B. Ryan,  
Members absent: G. Lewis, B. Pociask  
Alternates present: B. Chandy, V. Ward  
Staff Present: Linda M. Painter, Director of Planning and Development  
Curt Hirsch, Zoning Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed alternates Chandy and Ward to act in members' absence.

**Minutes:**

December 5, 2011 Meeting: Hall MOVED, Ryan seconded, to approve the 12/5/11 Meeting minutes as written. MOTION PASSED UNANIMOUSLY.

December 13, 2011 Field Trip: Beal MOVED, Ryan seconded, to approve the 12/13/11 minutes as written. MOTION PASSED with Goodwin, Beal, Holt, Ryan and Rawn in favor and all others disqualified.

**Zoning Agents Report:**

Noted.

**Old Business:**

a. **Special Permit Application For Wedding Venue (PZC File #1217-2)**

**552 Bassetts Bridge Road, J. & J. Bell owner/applicant**

Plante MOVED, Holt seconded, to approve with conditions the special permit application (File #1217-2), The Gardens at Bassetts Bridge Farm, for use as a wedding and brunch venue from May through October, as submitted to the Commission and shown on site plans dated September 19, 2011 revised through 11/15/2011, building plans revised through September 29, 2011 and as described in other application submissions and as presented at Public Hearings on September 6, 2011, October 3, 2011 and November 21, 2011.

This approval is granted because the application as hereby approved is considered to be in compliance with Article V, Section B and other provisions of the Mansfield Zoning Regulations and is granted with the following conditions:

1. This approval, which authorizes the seasonal operation of a wedding and brunch venue, is specifically tied to the applicant's submissions and the conditions cited in this motion. Unless modifications are specifically authorized, the proposed use and site improvements shall be limited to those authorized by this approval and previous approvals. Any questions regarding authorized uses, required site improvements, and conditions cited in this approval, shall be reviewed by the Zoning Agent and Director of Planning and Development and, as appropriate, the Planning and Zoning Commission.

2. No Zoning Permit shall be issued for Phase 1 site improvements until the following conditions are met:
  - a. Temporary/portable venue sign details have been submitted and approved by the Director of Planning and Development
  - b. Any entrance light used, whether provided by Connecticut Light and Power or the applicant, shall be dark sky compliant.
  - c. On-site parking lot and driveway lighting fixtures shall be dark sky compliant.
3. A Temporary Special Outing Facility Permit is approved as part of this special permit application subject to the applicant providing written approval from the Mansfield Police Department prior to any event at which alcohol is to be served. The applicant shall provide documentation verifying that they have complied with the Department of Consumer Protection Liquor Control regulations. Failure to comply with any conditions of the Police Department approval or problems resulting from the provision of alcoholic beverages may result in reconsideration of the Temporary Special Outing Facility Permit by the Planning and Zoning Commission.
4. A live music permit is approved as part of this special permit application subject to the following conditions:
  - a. Noise levels shall not exceed the maximum decibel levels at the property line established in Chapter 134 of the Mansfield Code of Ordinances (55 dBA daytime; 45 dBA nighttime).
  - b. Repeated noise complaints and/or violations may result in reconsideration of the live music permit by the Planning and Zoning Commission.
5. The applicant shall not apply for a Zoning Permit for Phase 2 improvements (restroom addition to barn and installation of the septic system) until a report prepared by a sanitary engineer, geologist or other qualified professional pursuant to the requirements of Article VI, Section B.4.m.1 regarding potential impact from the proposed septic system on the aquifer has been submitted to the Commission for review and approval. Such report should include any necessary mitigation measures, including relocation of the system if necessary to ensure that the waste disposal system discharges will not contaminate aquifer recharge areas. The Commission may refer the report to the Mansfield Health Officer, the Mansfield Conservation Commission, Connecticut Department of Health and Connecticut Department of Energy and Environmental Protection for review and comment prior to making a decision.
6. Zoning Permits for Phases 2 and 3 shall not be issued until the applicant has secured the necessary approvals from the Eastern Highlands Health District and Department of Public Health.
7. Approval to operate a Sunday brunch shall not become effective until the Phase 3 improvements have been completed. Times, seating capacity and menu shall be as identified in the statement of use. The previous café approval shall become invalid once the brunch operation commences.
8. The applicant shall employ best management practices as recommended by the Department of Energy and Environmental Protection and USDA Natural Resources Conservation Service for the application of manure, fertilizer or pesticides.
9. This permit shall not become valid until the applicant obtains the permit form from the Planning Office and files it on the Land Records.

MOTION PASSED with all in favor except Hall and Chandy, who disqualified themselves.

b. **Special Permit Application for Building Replacement and Expansion (PZC File #937-5)**  
**173 Storrs Road, Natchaug Hospital owner/applicant**

Holt MOVED, Plante seconded, to approve with conditions the special permit application (File #937-5), Natchaug Hospital, for demolition of the existing building at 173 Storrs Road and construction of a new facilities management building, as submitted to the Commission and shown on plans dated 8/16/2011 revised through 11/15/2011, building plans dated September 26, 2011 and as described in other application submissions and as presented at Public Hearings on November 7 and November 21, 2011.

This approval is granted because the application as hereby approved is considered to be in compliance with Article V, Section B and other provisions of the Mansfield Zoning Regulations and is granted with the following conditions:

1. This approval, which authorizes the demolition of an existing building and construction of a new facilities management building, is specifically tied to the applicant's submissions and the conditions cited in this motion. Unless modifications are specifically authorized, the proposed use and site improvements shall be limited to those authorized by this approval and previous approvals. Any questions regarding authorized uses, required site improvements, and conditions cited in this approval, shall be reviewed by the Zoning Agent and Director of Planning and Development and, as appropriate, the Planning and Zoning Commission.
2. No Zoning Permit shall be issued until the following conditions are met:
  - a. The plans for serving the subject building with public water and sewer service have been approved by the Windham Water Works;
  - b. Plans for location and screening of HVAC equipment have been submitted and approved by the Director of Planning and Development;
  - c. Details on location and type of exterior wall mounted lighting fixtures have been submitted and approved by the Director of Planning and Development; and
  - d. A handicap accessible parking space that meets current State Building Code requirements is added to the parking lot if required by the Building Official.
3. Plans submitted for building permit approval shall comply with the conditions contained in the memo from the Deputy Fire Marshall dated November 17, 2011.
4. The applicant shall ensure that the grounds maintenance staff is educated on maintenance procedures contained in the Stormwater and Landscape Management Plan dated November 21, 2011. The applicant shall be responsible for ensuring that all maintenance procedures are followed.
5. This permit shall not become valid until the applicant obtains the permit form from the Planning Office and files it on the Land Records.

MOTION PASSED with all in favor except Chandy who disqualified herself.

c. **Cease and Desist Order-Freedom Green (PZC File #636-4)**

Item tabled pending staff review of plans submitted to the Office on Monday, December 19, 2011. The Cease and Desist order, as per motion of December 5, 2011, remains in full force and effect.

d. **Interstate Reliability Project**

Attorney John D. Yarbrough, Jr. of Carmody & Torrance, and Anthony Mele, CL&P Interstate Reliability Project Manager, introduced themselves and stated that they are present to answer any questions the public or Commission might have regarding the project.

Linda M. Painter, Director of Planning & Development, summarized her memo sent via email to members on 12/15/11 and briefed the Commission on the background of the project and supplied a comparison of the previous 208 proposal to the current proposal.

Rich Civie, Beech Mountain Road, expressed concern that Mansfield will be paying for the power problems and needs in southwestern CT, noting that there will be detrimental impacts to Mansfield with no benefit. He felt that underground transmission would be the best option in Mansfield other than bypassing Mansfield all together. He suggested a committee be formed to go before the Siting Council and volunteered to be on it.

Mr. Mele stated that they anticipate filing the application with the Siting Council on Friday, December 23<sup>rd</sup> and noted that the Siting Council first holds open forums in the region for citizens to express concerns and ask questions. They anticipate the Siting Council Public Hearings will be held in the spring after the forums.

Holt stated, and by consensus the Commission agreed, that the letter the PZC sent to the council regarding the previous proposal is still adequate if updated to include that the PZC prefers the underground method throughout all of Mansfield. Painter agreed to have a draft letter prepared for the next meeting.

Additional conversation took place prior to the conclusion of the meeting. Beal suggested underground installation where CL&P proposes it in southwestern Mansfield should be acceptable, along with a request that it continue underground from the apex of Beech Mountain through Mansfield Hollow Reservoir, rather than from tower line to tower line as proposed. Discussion continued regarding the potential for disturbance at the Reservoir and park, and the crossing of the reservoir. Rawn asked that the Director request a cost estimate for underground installation from CL&P.

e. **Continued Discussion of By-Laws**

Item tabled.

f. **Special Permit Application for Fill (PZC File #1306)**

**28 Old Kent Road, J. James owner/applicant**

Item tabled, pending Public Hearing scheduled for 1/3/2012.

g. **Special Permit Application, Addition to Eastbrook Mall & Freestanding Building (PZC File #1307)**

**95 Storrs Road, New England Design/applicant**

Item tabled, pending Public Hearing scheduled for 1/3/2012.

**New Business:**

a. **Request to amend Conservation Easement/Hawthorne Lane Subdivision**

Linda M. Painter, Director of Planning and Development, summarized her memo which explained the request. Chris Duers, one of the affected property owners, stated that this request is a contingency plan if the Interstate Reliability Project proceeds, and that this request would protect the properties and quality of life for the residents of Hawthorne Lane. After discussing the proposal, the consensus of the Commission was that the proposed request to amend the Conservation Easement is appropriate and advised the residents to have a map prepared for the next meeting.

b. **8-24 Referral Re: Dog Lane Utility Easement**

Ryan MOVED, Holt seconded, that the PZC report to the Town Council that the PZC recommends that the Town Manager be authorized to grant the proposed utility easement to Connecticut Light and Power as it is consistent with Mansfield's Plan of Conservation and Development, the approved Storrs Center Master Plan and the Development Agreement between the Town and Storrs Center Alliance. MOTION PASSED UNANIMOUSLY.

c. **Special Permit Application, Cumberland Farms, (PZC File #1303-2)**

**643 Middle Turnpike & 1660 Storrs Road, Cumberland Farms, Inc./applicant**

Rawn MOVED, Holt seconded, to receive the Special Permit application (file #1303-2 ) submitted by Cumberland Farms Inc., for a Convenience Store and Gas Station on property located at 643 Middle Turnpike and 1660 Storrs Road as shown on plans dated 12-9-11 as shown and described in application submissions, and to refer said application to staff and committees, for review and comments and to set a Public Hearing for 1-17-12. MOTION PASSED UNANIMOUSLY.

**Reports from Officers and Committees:**

Beal noted that the next Regulatory Review Committee meeting will be on Wednesday, January 11<sup>th</sup> at 1:15 p.m. in Conference Room C. Linda M. Painter, Director of Planning and Development, noted that the Final Environmental Impact Statement for North Hillside Road Extension has been given to the Town. A copy is available to borrow in the Planning Office and any comments should be submitted to the Office prior to the end of the 30 day comment period of January 23, 2012.

**Communications and Bills:** Noted.

**Adjournment:**

Chairman Goodwin adjourned the meeting at 8:32 p.m.

Respectfully submitted,

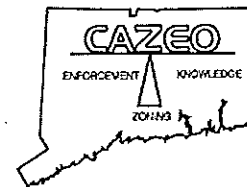
Katherine Holt, Secretary







# Town of Mansfield



CURT B. HIRSCH  
ZONING AGENT  
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING  
4 SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3341

Memo to: Planning and Zoning Commission  
From: Curt Hirsch, Zoning Agent  
Date: December 29, 2011

## MONTHLY ACTIVITY for December, 2011

### ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Naumec	666 Browns Rd.	12 x 20 shed
Valley View LLC	44 Marybell Dr.	replacement home
Hall	40 Mountain Rd.	lot-line revision
Hall	Mountain/Storrs Rd.	lot-line revision
United Services	N. Frontage Rd.	site development & lot-line revision
Sauve Consutling	162 Puddin La.	12 x 16 rear deck
Sniffin	90 Wildwood Rd.	outdoor wood furnace
Spencer	39 Maplewood Rd.	8 x 15 addition

### CERTIFICATES OF COMPLIANCE

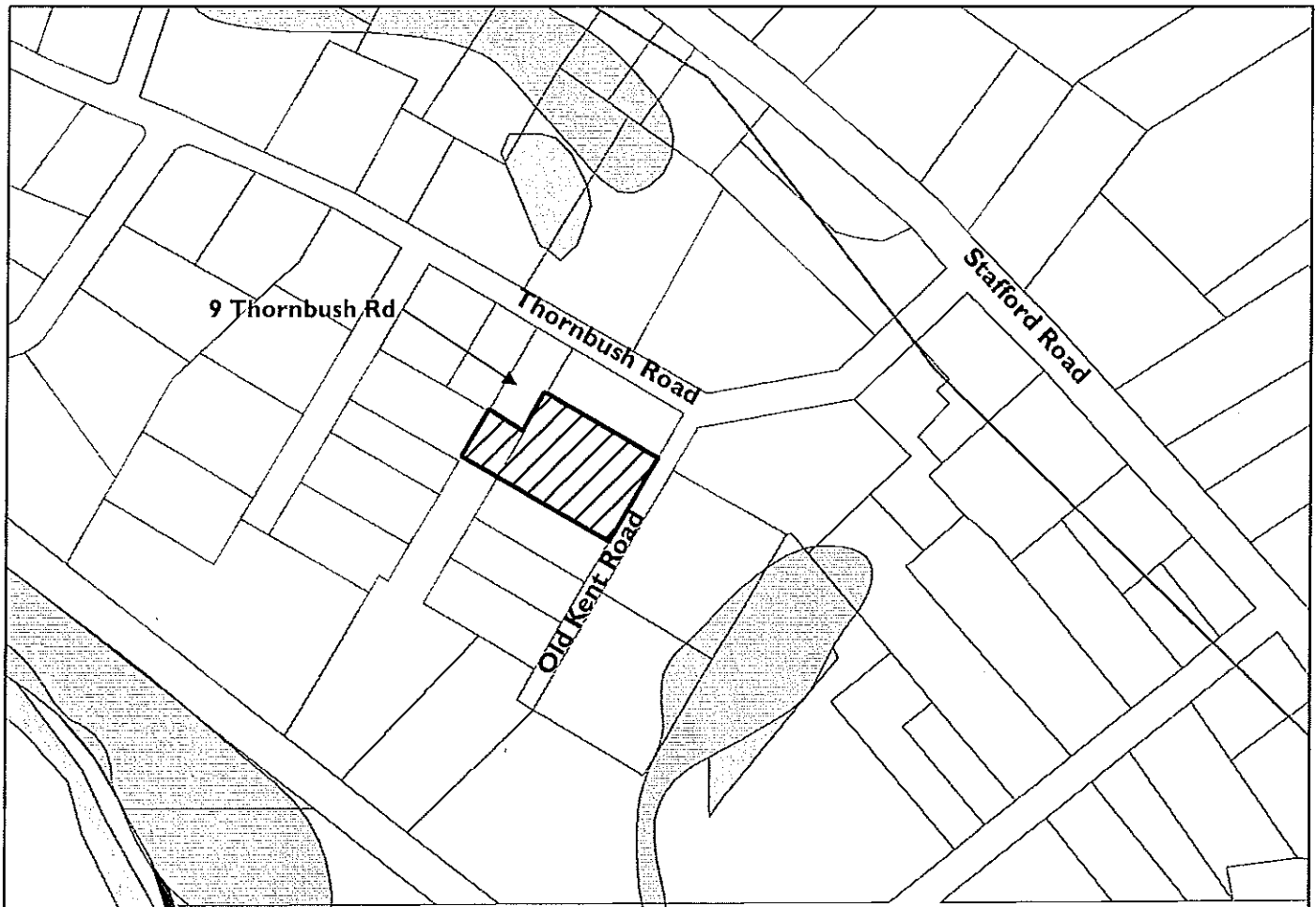
Klein	101 Stonemill Rd.	shed
Hall	40 Mountain Rd.	lot line revision
Chew	16 Thornbush Rd.	shed
Spring Hill Properties	75 Beacon Hill Dr.	1 fm dw
Spring Hill Properties	53/75 Beacon Hill Dr.	lot-line revision
Beall/Higgins	828 Wormwood Hill Rd.	shed
Stevens	415 Bassett's Bridge Rd.	house addition
Crepeau	244 S. Eagleville Rd.	horse barn

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# Mansfield Planning and Zoning Commission

File 1306: 28 Old Kent Road (Special Permit Application)

Report from Director of Planning and Development ■ December 29, 2011



## Legend

-  Subject Property: 28 Old Kent Road
-  Wetlands\_Town
-  water



## PROJECT OVERVIEW

**PZC File Number:** 1306  
**Applicant:** James James  
**Property Location:** 28 Old Kent Road  
**Zoning:** R-20  
**Property Size** 0.803

**Project Description:** The applicant is requesting retroactive Special Permit Approval for 200 cubic yards of fill that were placed on his property in response to a recommendation from a Superior Court judge as part of a lawsuit between the applicant and the property owner at 9 Thornbush Road.

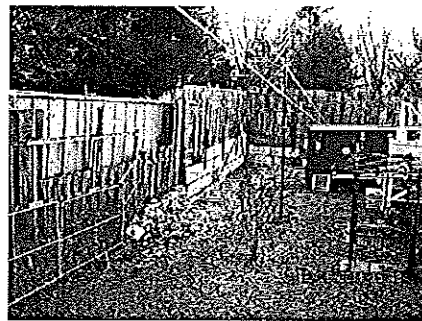
## PROJECT BACKGROUND & DESCRIPTION

### Property History

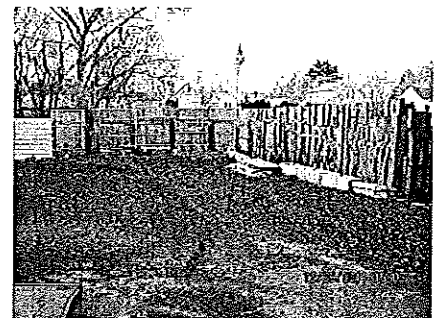
- Site has been used for Automotive Repair since approximately 1929. Currently, site is home to Heether's Garage, which has been operated by the applicant since 1975. The automotive repair use is non-conforming as the property is currently zoned R-20.
- The following expansions to the non-conforming use have been approved by the ZBA/PZC in the past
  - ⇒ 1983: 16' by 24' Garage addition
  - ⇒ 1987: Special permit for auto sales (voided in April 1990 because never initiated, reapproved in August 1990)
  - ⇒ 1997: Office addition
- In 2006, James acquired approximately 4,500 square feet of property along the western (rear) edge of his property, which borders the south property line of the lot at 9 Thornbush Road (Racicot Property)
- Over the years, the Zoning Agent has investigated numerous complaints of fill activity on the rear portion of the applicant's property. While small amounts of fill had been placed over many years, the amounts were not sufficient to trigger a special permit requirement. The slow build-up of fill clearly encroached beyond the west property line of the applicant's parcel, but the property owners to the west did not pursue any non-zoning related remedies available to them. During the same time period, there was increasing concern by the Racicots that the fill activity was preventing the natural flow of stormwater off of their property. This led to the filing of a Superior Court lawsuit against the applicant. The Town was initially also named in the legal action as a defendant, however, that claim was ultimately dismissed by the Court.
- During a pre-trial hearing between the two parties, the presiding judge recommended that the applicant remove the fill that had been placed on the Racicot's property to see if drainage problems continued. In the fall of 2010, the applicant removed the fill previously placed on the Racicot property. Additionally, he installed a drywell in the southeast corner of the Racicot property to further facilitate drainage of any stormwater. The fill removed from both the excavation of the drywell (approximately 125 cubic yards) and previous deposits (unknown volume) was relocated to the area of his property that was acquired in 2006, south of the Racicot property. Due to the difference in elevation and the additional fill, the applicant constructed a concrete block retaining wall along the common boundary between his property and the Racicot property.
- In November 2010, the Racicots filed a complaint with the Zoning Agent regarding new fill activity, at which time the activities described above were found. Based on the volume of material excavated from the Racicot site and filled on the applicant's property, special permit approvals should have been sought by both owners prior to the

work being performed. Letters were sent to both owners directing them to submit special permit applications for fill/excavation in excess of 100 cubic yards. This was followed in May 2011 by a Notice of Violation and in July 2011 by a Zoning Citation. The applicant has submitted this application in response; the Racicots' appealed to the Citations Hearing Officer. On November 30, 2011, the Hearing Officer upheld the Racicot appeal on the basis that the special permit application filed by Mr. James would address the situation for both properties.

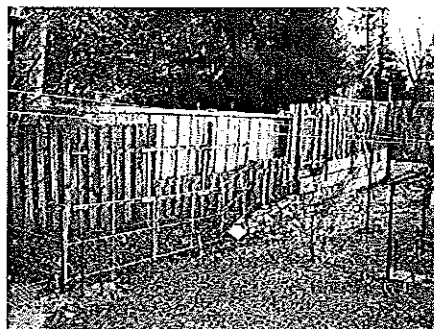
- In April 2011, the judge presiding over the follow-up pre-trial hearing recommended that the Racicots withdraw their claim against the applicant as flooding issues had subsided subsequent to the work performed by the applicant in the fall of 2010; the lawsuit was withdrawn pursuant to the judge's recommendation.



View of retaining wall  
from applicant's prop-  
erty



View of retaining wall  
and fence from Racicot  
Property



## ANALYSIS

Article V, Section B(5) of the Mansfield Zoning Regulations requires that the proposed project will not detrimentally affect the public's health, welfare and safety, and that the approval criteria shown in **bold text** below have been met.

**All approval criteria cited in Article V, Section A(5), Site Plan Approval Criteria, of the regulations have been met.**

As the application is for retroactive approval for fill in excess of 100 cubic yards within a 12 month period, the applicant has requested waivers of several site plan/special permit submission requirements:

- Energy considerations
- Parking/loading requirements
- Road and drainage standards
- Landscaping and buffering standards
- Erosion and sedimentation control/site development principles
- Height, area, setback, minimum floor area requirements
- Bonding requirements
- Sand and gravel regulations
- Provisions to address potential nuisances such as noise and outdoor lighting
- Provisions for grading and storm drainage improvements and necessary easements.

### Compliance with Zoning Regulations

The application has been filed in accordance with Article X, Section H of the Zoning Regulations, which requires special permit approval for filling of 100 or more cubic yards within a 12 month period. The applicant has placed approximately 200 cubic yards of fill on the rear portion of his property.

Specifically, the fill regulations contained in Article X, Section H are intended to:

- Protect Mansfield's natural resources, including existing and potential surface and groundwater drinking supplies, from potential adverse impacts including erosion and sedimentation problems and water contamination;
- Protect residential properties from potential adverse impacts including noise, dust, visual impacts and other nuisance problems and the lowering of property values;
- Protect citizens from potential vehicular or pedestrian traffic hazards;
- Promote safe site conditions;
- Promote appropriate site restoration and provide for appropriate future uses of the subject property;
- Promote Plan of Development goals, objectives and recommendations.

Many of the regulations in Section H deal with excavation, removal and processing activities and are therefore not applicable to this specific request. As such, approval of

waivers for information other than that submitted by the applicant would be appropriate.

As with submission requirements, many of the approval criteria are also designed to address impacts from excavation, removal and processing activities. Additionally, as this is a retroactive request, many of the criteria intended to deal with impacts at the time of the fill activity are also moot. As such, only the following approval criterion appears to apply to the subject request:

*5(d). In considering any proposed activity, the Commission shall determine that appropriate measures shall be taken to protect nearby property owners from visual impacts, drainage impacts, noise impacts, dust impacts and potential property value impacts.*

As noted in the applicant's statement of use, the fill activity on his property was done to alleviate drainage issues on a neighboring property to the north (9 Thornbush Road-Racicot Property), where small amounts of fill from the applicant had accumulated over time. The applicant removed fill placed on the Racicot property and excavated a dry well in the southeast portion of that property in an attempt to rectify the drainage problems. A concrete block retaining wall was constructed along the common property line to contain the fill. As such, no drainage impacts on nearby properties are anticipated from the fill, which has been in place since the fall of 2010.

With regard to visual impacts, fencing constructed of a patchwork of materials has been constructed along the rear and side property lines, on top of the retaining wall. While the fence screens the applicant's property from neighboring properties, it is not an aesthetically attractive screen due to its composition. As noted under review of compliance with architectural and design standards, the fence should be replaced to present a more appropriate visual screen to adjacent properties.

### State and Local Agency Approvals/Permits.

No state or local agency permits are required other than the Planning and Zoning Commission.

### **The proposed use is compatible with the Town's Plan of Conservation and Development**

- The subject property is designated as Medium to High Density Residential in the Plan of Conservation and Development.
- The existing use of the subject property is non-conforming, as described under project background. However, the area where the fill has been placed has only been acquired within the last few years. No approval to expand the non-conforming use to this area has been requested or approved by the Commission. Use of this portion of the property shall be limited to residential uses allowed in the R-20 zone.

## ANALYSIS (CONTINUED)

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The location and size of the proposed use and nature and intensity of the use in relation to the size of the lot will be in harmony with the orderly development of the Town and other existing uses.

This application pertains only to the addition of fill to the subject property. No expansion of the non-conforming use to the westernmost area of the property (approximately 60 feet by 85 feet) shall be permitted through approval of this request.

Proper consideration has been given to the aesthetic quality of the proposal, including architectural design, landscaping and proper use of the site's natural features. The kind, size, location and height of structures, and the nature and extent of site work, and the nature and intensity of the use, shall not hinder or

discourage use of the neighboring properties or diminish the value thereof. All applicable standards contained in Article X, Section S shall be incorporated into the plans.

Currently, the fencing installed on top of the concrete block retaining wall is a patchwork of different types and materials. A new solid fence, six to eight feet in height, should be installed to properly screen the area from neighboring properties. The design of such fence should be approved by either the Commission or the Director of Planning and Development to ensure compatibility with adjacent properties.

## SUMMARY/RECOMMENDATION

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Based on the information available at the time this report was written, I find no significant land use issues with the proposed restaurant. The following issues/conditions should be addressed in any approval motion.

- Prohibition of expansion of non-conforming use to westernmost portion of property, including specific indicators of expansion such as vehicle storage, etc.
- Replacement of current boundary fence with solid fence of one material/design to be approved by Director of Planning and Development

- Waivers to submission requirements for site plans and specifically those related to special permits for filling/grading.

## NOTES

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- The analysis and recommendations contained in this report are based on the following information submitted by the applicant:
  - Application submitted November 9, 2011, including:
    - Project Statement of Use
    - Plan showing Fill Area
    - Requests for Waivers to various site plan submission requirements
- Correspondence regarding the proposed development has been received from the following:
  - Memo from Grant Meitzler, Assistant Town Engineer, dated 12/29/2011
- Neighborhood Notification Forms were sent to property owners within 500 feet of the subject property in

accordance with Article V, Section B(3)(c) of the Mansfield Zoning Regulations. A copy of the notice and certified mail receipts have been provided to the Department of Planning and Development.

- Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and Public Hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicant grants a written extension.
- The Public Hearing on this item will be opened on January 3, 2011.

Memorandum:

December 29, 2011

To: Planning & Zoning Commission  
From: Grant Meitzler, Inland Wetland Agent  
Re: James Fill Permit - 28 Old Kent Rd

With this limited fill already in place I do not see any Public works issues.

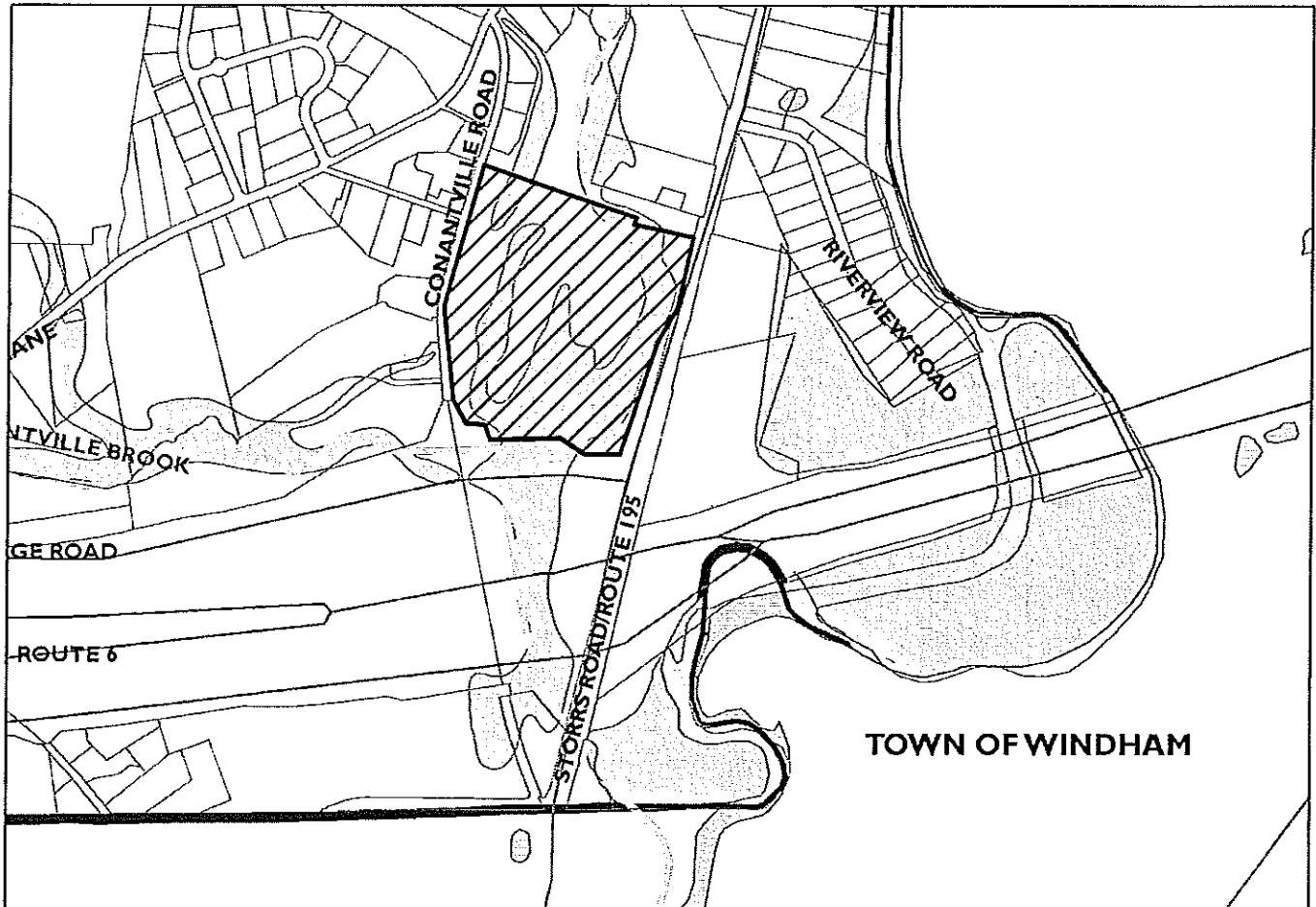
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
# Mansfield Planning and Zoning Commission

File 1307: Eastbrook Mall (Special Permit Application)

Report from Director of Planning and Development ■ December 29, 2011



## Legend

-  Subject Property: Eastbrook Mall
-  Wetlands\_Town
-  water



## PROJECT OVERVIEW

PZC File Number: 432-6

Applicant: East Brook F LLC

Property Location: 95 Storrs Road

Zoning: PB-1/Design Development District

Property Size 27.6 acres

**Project Description:** The applicant is requesting Special Permit Approval to construct a 14,528 square foot addition to the north side of the existing mall, and develop an out-parcel at the northeast corner of the property with a 3,200 square foot building. Changes to parking lot layout and access are also proposed as part of the application.

## PROJECT BACKGROUND & DESCRIPTION

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### Project Overview

Eastbrook F LLC is requesting special permit approval to make the following changes to Eastbrook Mall, located at 95 Storrs Road:

- Construction of a 14, 528 square foot building addition on the north side of the mall to house a new Michael's Arts and Crafts store.
- Development of a new outparcel at the northeast corner of the site with a 3,200 square foot mercantile building. No specific use has been proposed at this time.

The proposed development would require significant changes to access and parking for the northern half of the mall site, including:

- Construction of a new right-in/right-out driveway onto Storrs Road/Route 195.
- Construction of a bridge over Sawmill Brook to connect the outparcel with the main mall parking lot
- Relocation of the northern mall access road/driveway to accommodate the building addition. This relocation would also require significant grading and construction of a gravity retaining wall along the north property line
- Changes to parking lot layout to add more landscape islands that will serve as initial treatment of parking lot stormwater runoff.
- Changing the driveway that currently runs along the southwest edge of the brook from two-way to one-way into the parking lot.

Based on staff's initial review, the proposed development will require reductions to required parking and landscape buffers adjacent to wetlands.

### Site History

The following outlines the major changes in Eastbrook Mall since its original development in the mid-1970s.

- |      |   |
|------|---|
| 1973 | Original mall approved by PZC, including relocation of stream                   |
| 1974 | Revised site plan for mall approved   |
| 1984 | Approval of ±39,000 foot addition to west side (rear) of existing mall building |
| 2000 | Façade Improvements   |
| 2001 | New Applebees and Savings Institute Buildings approved                          |
| 2004 | Renovations for movie theater approved  |
| 2005 | Renovations for Kohls approved  |

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## ANALYSIS

Based on initial staff review as well as comments from the Conservation Commission and Design Review Panel, additional information is needed from the applicant for staff to complete its review of the proposed project. At a meeting with the applicant's agent and the Assistant Town Engineer on December 28, 2011, it was determined that the applicant would make a brief presentation on the project at the opening of the public hearing on January 3, 2011, with a more complete presentation to follow at a future meeting once revised plans have been submitted and reviewed.

Due to the need for additional information, a complete analysis of the project has not been prepared as part of this report. However, additional information needed as well as

significant areas of concern have been highlighted for easy identification in bold orange text.

Article V, Section B(5) of the Mansfield Zoning Regulations requires that the proposed project will not detrimentally affect the public's health, welfare and safety, and that the approval criteria shown in **bold text** below have been met.

**All approval criteria cited in Article V, Section A(5), Site Plan Approval Criteria, of the regulations have been met.**

The applicant needs to submit a site plan checklist, including waiver requests.

## ANALYSIS

### Compliance with Zoning Regulations

**Land Use.** The applicant needs to identify a list of proposed uses for the out-parcel building.

**Grading/Excavation.** The proposed development includes significant excavation along the north property line and installation of a retaining wall. The applicant needs to provide the volume of material being excavated and identify how they are meeting the requirements of Article X, Section H.

**Flood Hazard Areas.** The Sawmill Brook runs along the northern and western boundaries of the property. The area of the proposed out-parcel and new building are within the A and A-6 Flood Hazard areas (100 year base flood elevation) as identified on the 1981 Flood Insurance Rate Map (FIRM). It appears that the flood hazard areas (elevation 167 feet) depicted do not correspond to changes made as part of the Eastbrook Mall development. For example, the out-parcel elevation as shown on the existing conditions map ranges from 166 to 172 feet in elevation. Furthermore, the applicant has proposed additional grading that would place the finished floor elevation of the proposed building at 169.5 feet, above the 100 year base flood elevation.

However, Article X, Section E of the Zoning Regulations prohibits the construction of new buildings within designated flood hazard areas and land subject to 100-year flooding. All areas depicted as Flood Zone A on the Firm Maps are designated as regulated floodways. As such, the proposed building on the out-parcel adjacent to Storrs Road should not be considered until the applicant obtains a FIRM Map amendment officially removing this area from the 100 year flood base flood elevation.

**Design Development District.** The property is located within the Planned Business I Design Development District. Pursuant to Article X, Section (A)(4)(d), building setbacks are determined by the Planning and Zoning Commission.

**Architectural and Design Standards.** See discussion on page 5 of this report.

**Landscape Buffer.** Pursuant to Article VI, Section B(4)(q) (2), a minimum 50 foot wide landscape buffer is required when the proposed development abuts a less restrictive zone or wetland area unless a waiver is granted by the Commission due to existing physical characteristics such as topography, adjacent flood hazard, or the nature of wetland areas; the location of existing structures; existing non-conforming lot size; the nature of the activity or the nature of the landscaping plan. While there are currently areas of non-conformance, particularly the existing parking lot driving aisle west and south of Sawmill Brook, additional waivers are needed for the proposed

development. The proposed retaining wall north of the building addition is located on the north property line and appears to be approximately 18 feet from Wetland Flag #1. With regard to the proposed out-parcel, the proposed parking lot is located 13 feet from the wetland boundary at its closest point (other than the bridge crossing the brook).

**Site Development Principles.** Article VI, Section B(4)(r) requires that:

- grading activities be fitted to the topography and soils so as to create the least erosion potential
- Where possible, extensive cut and fill operations should be avoided
- Wherever feasible, natural terrain and vegetation shall be retained and protected
- Wherever feasible, buffers of undisturbed natural vegetation of 50 feet or more should be retained along watercourses and wetlands
- Cut and fill slopes should not be greater than 3:1 unless suitably stabilized and approved by the Commission

As noted previously, significant excavation is needed on the north side of the existing mall that will result in a gravity retaining wall.

**Signs.** Both the building addition and the new building signs are shown as using internally illuminated channel letters. While this is consistent with the other large retailers on site, and therefore appropriate for the proposed building addition, a sign using indirect illumination would be more appropriate for the outbuilding.

### ▪ State and Local Agency Approvals/Permits.

**Inland Wetlands Agency.** The applicant has applied for an Inland Wetlands License concurrently with this Special Permit Application as the proposed development is within 150 of the mapped wetland boundary.

**Windham Water Pollution Control Company.** The applicant is proposing to connect to the Windham public sewer system. Confirmation that the WWPCA has no objections to the proposed connection should be provided.

**Windham Water Works.** The applicant is proposing to connect to the Windham public water system. Confirmation from WWW that capacity is available and that they have no objections to the proposed connection should be provided.

**Connecticut Department of Transportation:** As Storrs Road is a state road, ConnDOT approval is needed for the

## ANALYSIS (CONTINUED)

proposed right-in/right-out driveway. A December 28, 2011 letter from David Sawicki identifies additional information required from the applicant before a decision can be made.

- Environmental (Water, Wastewater, Flood Control, etc.)

See State/Local Agency Permit Approvals, above.

*Aquifer Protection.* The proposed project is in an area of stratified drift aquifer identified on Map 10 of the Plan of Conservation and Development. As such, the development is subject to the requirements of Article VI, Section B(4)(M) regarding performance standards within aquifer areas, particularly with regard to stormwater and landscape management. The applicant has submitted an operations and maintenance plan detailing landscaping and stormwater practices that will be used to minimize potential for groundwater contamination by salts and chemicals for ice removal and pesticides.

*Flood Control.* See compliance with Zoning Regulations.

*Endangered/Threatened Species.* The project site is within an area identified as a potential habitat for endangered/threatened species on the state Natural Diversity Database map. The applicant needs to file for a formal review with the Department of Energy and Environmental Protection for a formal impact determination.

- Site Access (Vehicle, Pedestrian, Parking, Loading, Etc.)

*Pedestrian Facilities.* An existing sidewalk extends along the frontage of Storrs Road for the length of the subject property. Pedestrian connections are proposed from the sidewalk to the new mall addition. A more direct sidewalk connection is needed to the proposed new building.

*Bicycle Facilities.* No bicycle facilities are currently proposed. This should be addressed in the revised plan submission.

*Transit Facilities.* Eastbrook Mall is currently served by Windham Regional Transit District as part of its Storrs/Willimantic Route. The stop is located next to the existing mall building and will provide service to both the Michael's addition and the proposed out-parcel.

*Vehicular access and facilities.* The applicant is proposing to add a new right-in/right-out driveway north of the existing mall entrance on Storrs Road to access the proposed out-parcel. This driveway will require approval from the Connecticut Department of Transportation. Members of the Design Review Panel expressed concern with the proposed driveway and its impacts on Storrs Road and function of the signal at the main entrance to

the mall. The Traffic Authority also expressed concern with adding to the complexity of vehicular movements in that area on 195 due to the multiple existing curbcuts.

The Assistant Town Engineer has recommended that the driveway to the rear of the mall be straightened somewhat from the proposed configuration to continue the current 'boulevard' effect for vehicles traveling around the rear of the mall. The applicant has indicated that as part of that revision, they will install a speed table adjacent to the building addition to serve as a traffic calming feature. The typical speed of vehicles using the current driveway in that location is 30 MPH. The Traffic Authority also expressed concern regarding vehicular movements at the NEC and NWC of the proposed addition and noted that clarification of movements and traffic control signs are needed.

Lastly, the Traffic Authority expressed concern with the conflicting movements where the new driveway crosses the brook and intersects with the proposed one-way and two-way parking lot driveways. The Traffic Authority recommended that the one-way driveway running along the southwest side of the brook be eliminated to create a simpler intersection. Landscape pruning/removal at the main parking lot driveway intersection after the main entrance will be needed to ensure adequate visibility is maintained now that all traffic will be funneled through this area.

*Parking.* The proposed development will result in a parking deficit based on current requirements of 137 spaces. Provision of additional vegetated areas as recommended by the Conservation Commission will result in a further loss of parking spaces. However, the existing parking appears to greatly exceed demand as demonstrated by the informal studies referenced in the application. As such, it is recommended that the applicant identify a location and design for parking that could be constructed in the future to meet parking requirements if determined to be needed by the Zoning Agent. This would allow for significant improvements to parking lot landscaping and vegetation in the short term, while recognizing that demand may change in the long-term.

- Noise and Outdoor Lighting.

The proposed lighting plan indicates that there will be no significant light spillage beyond the property lines (maximum of 0.2 footcandles at property line in limited locations; most area at 0 or 0.1 footcandles).

- Passive Solar and Energy Conservation.

As the existing mall building was developed with an east/west building orientation, it is not possible for the new addition to be designed with a north/south orientation. The new building also has an east/west orientation, which appears to be the result of the limited space and design

## ANALYSIS (CONTINUED)

placing parking to the rear and side of the building, which is also desired.

- Neighborhood Impact.

Given the existing development of the site, no significant neighborhood impact is anticipated.

- Utilities

*Electric, Telephone, Cable.* The applicant is planning to connect to an existing utility pole (CLP#4635) located immediately to the south of the proposed driveway. The existing overhead connection to the mall will be replaced with a new underground primary.

*Water and Sewer.* As noted, the applicant is planning to connect to the Windham public water and sewer system.

### The proposed use is compatible with the Town's Plan of Conservation and Development

- The subject property is designated as Planned Business/ Mixed Use in the Plan of Conservation and Development.
- Policy Goal 1, Objective B recommends that higher density commercial uses be encouraged in areas designated as Planned Business/Mixed Use, especially those with public water and sewer connections such as the subject property.
- The property is in an area of Stratified Drift Aquifer as depicted on Map 10 of the POCD. As noted previously, the applicant has prepared stormwater and landscape management plans to minimize potential for groundwater contamination.

### The location and size of the proposed use and nature and intensity of the use in relation to the size of the lot will be in harmony with the orderly development of the Town and other existing uses

- The proposed development would have a building coverage of 23.8%; the maximum allowed is 25%.
- On the west, the property is separated from residential properties by a steep grade change and Conantville Road.
- The proposed building addition will result in elimination of the existing grassed bank and vegetation on the north property line. An estimated 12-foot high gravity retaining wall has been proposed. This wall will be 4 feet deep, eliminating the potential for installation of any new vegetation adjacent to the property line. Additional detail regarding the proposed retaining wall (elevations, etc.) and existing vegetation along the property line needs to be submitted in order for staff to evaluate the actual impact of the proposed design. Distance from the top of the retaining wall to the downward slope of the streambed is also needed. Cross-sections showing the building, parking lot, retaining wall, and brook banks are recommended.

Proper consideration has been given to the aesthetic quality of the proposal, including architectural design, landscaping and proper use of the site's natural features. The kind, size, location and height of structures, and the nature and extent of site work, and the nature and intensity of the use, shall not hinder or discourage use of the neighboring properties or diminish the value thereof. All applicable standards contained in Article X, Section R shall be incorporated into the plans.

The following concerns have been identified regarding the proposed development:

#### Building Addition-Key Concerns

The width of the proposed addition combined with the need for 30 feet of emergency vehicle access and the change in topography north of the existing building has resulted in a canyon-like effect, where the new driveway along the north side of the building will be sandwiched between the building and retaining wall. The applicant has indicated that it is not possible to reduce the width of the addition any further due to tenant requirements.

To soften this canyon, it is recommended that the applicant break up the northern façade of the building to create visual interest instead of the flat façade currently proposed. Additionally, the applicant has proposed the use of an 'evergreen' retaining wall with groundcover plantings in the graduated steps of the gravity retaining wall to soften the northern edge. The design of this wall should use an exposed aggregate finish in the sand/tan color family to reduce the stark appearance. Additionally, irrigation should be required to ensure survival of the plantings on the south facing wall. Additional elevations and details on proposed materials for the wall need to be submitted.

To address the loss of pervious area from the addition, the applicant has proposed several new landscape islands along the eastern edge of the existing parking lot that will also function partially as rain gardens to provide initial filtration of water runoff before it reaches the brook. The Conservation Commission recommended that at least as much impervious cover be eliminated southwest of the brook as is created by the expansion/new development. In particular, they recommended replacement with a broad vegetated berm on the southwest side of the brook. To determine compliance with this recommendation, information regarding existing and proposed amounts of impervious surface is needed.

The applicant is willing to further increase the landscape islands along the east side of the parking lot to meet this goal; however, this will result in further reduction of the number of parking spaces below that currently required. As noted previously, parking demand for the mall is which is currently significantly less than what exists on site. A further reduction to increase landscaping would be appropriate provided a contingency plan was approved that identified areas for providing additional parking in the future if necessary.

## ANALYSIS (CONTINUED)

### New Building-Key Concerns

The main entrance to the building is on the west façade facing the mall and rear parking lot. Given the proximity of this building to the sidewalk along Storrs Road, the main entrance should be located either on the front façade or at the

southeast corner of the building where the side entrance is currently proposed, with a wrap-around entrance feature. Direct pedestrian access from the sidewalk to this entrance should be provided. Additionally, the electric transformers should be moved to the west façade of the building.

## SUMMARY/RECOMMENDATION

Based on the information provided to date, there are several key issues that need to be further addressed by the applicant as well as additional information that is needed to complete the staff review. It is recommended that the public hearing be continued after the applicant's initial presentation.

### Additional Information Needed

- Site plan checklist, including specific waiver requests (parking, landscape buffer and any others)
- List of potential uses for the outbuilding
- Approval from Windham Water Works for proposed water connection
- Approval from Windham Water Pollution Control Authority for proposed sewer connection
- Revised submission to State Traffic Commission in response to 12/28/2011 letter
- Results of DEEP review regarding Natural Diversity Database impacts to endangered or threatened species.
- Volume of material being excavated (cut/fill) and how the proposal will comply with the requirements of Article X, Section H, including information required for removal of material in excess of 5,000 cubic yards, if applicable
- FIRM map amendment
- Site plan changes, including:
  - Proposed location/design of parking to be constructed if needed at future date

- Additional landscape/vegetated areas southwest of brook pursuant to Conservation Commission recommendation
- Identification of pre- and post-development impervious cover area
- Reflection of changes to out-building design and access
- Changes to parking lot circulation as recommended by the Traffic Authority and referenced in this report

- Details of proposed retaining wall including height and cross-sections as well as cross-sections in various locations showing the building, driveway, retaining wall, and brook banks
- Revisions to architectural elevations and floor plans as described in this report, as well as any needed to be consistent with overall site plan
- Reductions to landscape buffer width and number of required parking spaces

### Key Issues to be Addressed

- Impact on mapped flood hazard areas and need for a FIRM map amendment
- Potential impacts on brook from bridge and realignment of driveway along north property line and suggested mitigation measures
- Design of north side of building addition and reduction in canyon effect created by building and retaining wall
- Impact on endangered/threatened species

## NOTES

- The analysis and recommendations contained in this report are based on the following information submitted by the applicant:
  - Application submitted December 1, 2012 and received by the PZC December 5, 2012, including:
    - Statement of Use
    - Sanitary Report
    - Operations and Maintenance Plan
    - December 2011 Stormwater Management Report revised through December 16, 2011 prepared by BL Companies
    - October 2011 Traffic Impact Study prepared by BL Companies
    - 22-Page Plan Set including existing conditions survey, site plan, grading, erosion control, landscaping, and building elevations prepared by BL Companies and New England Design dated December 1, 2011 revised through December 16, 2011
- Correspondence regarding the proposed development has been received from the following:
  - Memo from Fran Raiola, Deputy Fire Marshall dated 12/21/2011
  - Memo from Grant Meitzler, Assistant Town Engineer, dated 12/29/2011
  - Letter from David Sawicki, Executive Director, CTDOT State Traffic Commission dated 12/28/2011
  - Memo from Conservation Commission dated 12/29/2011
  - Memo from Design Review Panel dated 12/29/2011
  - Neighborhood Notification Forms are required to be sent to property owners within 500 feet of the subject property in accordance with Article V, Section B(3)(c) of the Mansfield Zoning Regulations. A copy of the notice and certified mail receipts must be provided to the Department of Planning and Development.
  - Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and Public Hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicant grants a written extension.
  - The Public Hearing on this item will be opened on January 3, 2012.



# TOWN OF MANSFIELD

## Mansfield Fire Department



JOHN JACKMAN, DEPUTY CHIEF / FIRE MARSHAL  
FRAN RAIOLA, ASST. CHIEF / DEPUTY FIRE MARSHAL

AUDREY P. BECK BUILDING  
4 SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
TELEPHONE (860) 429-3328  
FACSIMILE (860) 429-3388

To: Planning and Zoning Commission  
From: Fran Raiola, Assistant Chief / Deputy Fire Marshal  
Date: December 21, 2011  
Re: Special Permit Application- Eastbrook Mall

PZC file #1307

After reviewing the application, file, and plans dated December 1, 2011, for the proposed addition to the existing Eastbrook Mall structure, the development of a free standing building in the northeast corner of the property, and related parking and site work located at 95 Storrs Road, submitted by Eastbrook F, LLC, I have the following comments:

- The submitted plans appear to be in substantial compliance with the Town of Mansfield Fire Lane Ordinance.
- Please indicate/confirm that all fire lanes have a minimum inside turning radius of 25 feet.
- The submitted plans indicate relocation of the existing water main and a fire hydrant. The new location for the fire hydrant must be coordinated with any future fire protection systems and fire department connections for the new building addition and must receive final approval from the Fire Marshal's Office and Fire Department.
- The applicant is required to submit plans and specifications to the Building Department and the Office of the Fire Marshal, prior to a Building Permit from the Building Department being issued. The plans and specifications must be in substantial compliance with The Connecticut Building Code, The Connecticut Fire Safety Code and The Connecticut State Fire Prevention Code prior to the commencement of work.

Fran Raiola  
Asst. Chief/Deputy Fire Marshal

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Memorandum:

December 29, 2011

To: Planning & Zoning Commission  
From: Grant Meitzler, Inland Wetland Agent  
Re: Eastbrook Mall - addition & satellite building

plan reference: bearing latest revision date December 20, 2011  
Traffic Impact Study ..... October 2011  
Storm Water Management Study ... December 2011

This application proposes extending the front section of Eastbrook Mall 82'8" on the north end of the existing building. Additionally, a separate building is proposed on land located between the Sawmill Brook and Route 195 with a new "right turn only" driveway to/from Route 195 and a new driveway crossing over Sawmill Brook connecting the two sites.

The proposal appears subject to the DEP Fisheries, FEMA flooding, and possibly ConnDOT drainage requirements. The Natural Diversity Database mapping indicates this area is within one of the shaded circle areas indicating rare or endangered species.

These plans are still a work in progress. The following list of comments represents areas of discussion with the applicant and BL Companies, the plan preparers. After a productive meeting with the applicant's engineer this remains a work in progress. As such, a continuation of the public hearing is appropriate. A summarized version of items:

#### Traffic, Parking and Circulation

Discussion involved changes to the intersection areas at the front and rear of the proposed Michael's building.

#### Drainage

The drainage calculations submitted show a modest decrease in flow from the building and parking lot areas directly involved with the mall addition through the use of under surface storage within parking lot and drive areas.

The existing paved leak-offs along the east edge of the mall parking lot and Sawmill Brook are deteriorated and should be upgraded. Removal of a large sand bar that has accumulated at the approach to the existing mall drive entrance was also discussed.

After lengthy discussion of the required hydraulic capacity for the proposed drive crossing Sawmill Brook it was agreed that a match of the capacity of the original driveway hydraulic design of twin 10'x 5.5' box culverts is acceptable.

# **TOWN OF MANSFIELD**

## **CONSERVATION COMMISSION**

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Memo to: Mansfield Inland Wetland Agency and Planning and Zoning Commission  
From: Mansfield Conservation Commission  
Date: December 29, 2011  
Re: Eastbrook Mall  
PZC File # 432-6  
IWA File # W1490

At a meeting held on 12/21/11, the Mansfield Conservation Commission agreed on the following comments:

- A. The Commission is concerned about runoff into Sawmill Brook from the Eastbrook Mall parking lots. To provide some protection for the brook, developers of the proposed expansion should eliminate at least as much impervious cover (IC) southwest of the brook as is created by the expansion; in particular, the eliminated IC should be replaced with a broad vegetated berm on the southwest side of the brook.
- B. The brook should be protected from sedimentation during construction by adequate erosion-control measures.
- C. Realigning the north access road will bring it quite close to the brook, and it is not possible, on the basis of the information provided, to rule out a significant impact on the brook.

## **TOWN OF MANSFIELD**

### **Design Review Panel**

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AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILL ROAD  
STORRS, CT 06268  
(860) 429-3330

Date: December 29, 2011  
To: Planning and Zoning Commission  
From: Design Review Panel  
(J. Brown, J. Lenard)  
Re: Eastbrook Mall Project, PZC File #432-6

At a 12/22/11 meeting, Design Review Panel members reviewed submitted plans for the proposed projects at Eastbrook. Members agreed to forward the following comments for consideration by the applicant and the Planning and Zoning Commission.

- Concerned with proposed right-in/right-out driveway onto Storrs Road
- Need for multiple cross sections of area between building addition and Sawmill Brook (suggested at 50 Foot intervals)
- Need for clarification on storm sewers-appears to be two systems
- Concerned with bridge crossing and impact on brook
- Need to resolve inconsistencies in loading area design between architectural site plans.

Additionally, separate comments from Peter Minutti are attached as he could not attend the meeting.

12. 21.2011

Comments from Peter Miniutti, Member Design Review Committee:

**Cumberland Farms @ Four Corners**

**General observation:** Building massing and landuse is not consistent with creating a welcoming mixed – use, pedestrian friendly “Gateway” to Mansfield and UConn.

1. Parcel(s) need to have an overall master plan with much higher density and mix of landuses.
2. Building(s) should be multi-story and closer to street similar to Storrs downtown (maybe not quite so tall).
3. Gas station should be a supplemental use, not the major use.
4. A commitment to multi-modal transportation design (walking and biking) is lacking.
5. This project needs to set an example for sustainable development at Four Corners.

**Eastbrook Mall Proposal**

**General observation:** Proposed building massing and materials are in character of the existing mall. No additional comments.



**STATE OF CONNECTICUT**  
STATE TRAFFIC COMMISSION  
DEPARTMENT OF TRANSPORTATION  
2800 BERLIN TURNPIKE, P.O. BOX 317546  
NEWINGTON, CT 06131-7546  
Phone: (860) 594-3020

**MEMBERS**

Commissioner of Transportation  
Commissioner of Motor Vehicles  
Commissioner of Emergency  
Services and Public Protection

December 28, 2011

**VIA E-MAIL**

Mr. Fred M. Greenberg, P.E.  
fgreenberg@blcompanies.com  
BL Companies  
355 Research Parkway  
Meriden, CT 06450

STC #077-1112-01

Dear Mr. Greenberg:

Subject: Town of Mansfield  
Certificate No. 179-D  
East Brook Mall Expansion  
Administrative Decision Request

This will confirm receipt of your letter and associated information received on December 8, 2011, requesting an Administrative Decision (AD) to preclude formal State Traffic Commission (STC) action regarding the subject expansion not previously considered under STC Certificate No. 179-D. However, the submission is **incomplete** and the following items must be addressed before the review can continue:

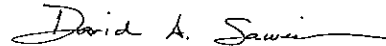
1. Submit an overall site plan, which shows the **entire** development (existing and proposed) with a distinct peripheral property line, the call out "Administrative Decision Review Area," and identifying the building square footage, number of parking spaces, and abutting property owners. Sightline information for the proposed driveway must also be shown on the plan.
2. Submit an assessment, including appropriate supporting information, regarding the impact the new driveway and associated building expansion will have on the state highway drainage system, if any.
3. The proposed driveway should be geometrically designed to be more restrictive to prevent left turning vehicles from entering and exiting the site and must be designed with consideration for pedestrians. The crosswalk for the proposed driveway should not be located behind the stop bar. The design of the driveway and location of the crosswalk should be such that when an exiting vehicle stops at the stop bar, a pedestrian in the crosswalk can be seen. Please see the enclosed "channelizing" pdf to be used as a guide for designing the driveway.
4. The Department's Bureau of Policy and Planning has indicated that the submitted traffic projections are not acceptable and has the following comment: It seems logical that more trips entering the site via Route 195 southbound would shift to the proposed driveway to access the site. Please revise the distribution to show more trips using this drive, or provide an explanation of the provided distribution.

5. The need for left turn bypass on the proposed driveway at the parking lot access for the proposed dentist office must be evaluated.
6. A signal appurtenant easement will be necessary for the Department to maintain the existing signal appurtenances on the main site driveway that are not within the existing state right of way. Appropriate easement limits must be shown on the overall site plan.

Should you have any questions regarding the technical review, you may contact Ms. Tracy L. Fogarty, P.E. at (860) 594-2740 in the Division of Traffic Engineering.

Please provide evidence of local planning and zoning approval once it is received (i.e., copy of local approval letter or separate letter from the planning and zoning office indicating the approved land use, building square footage, and number of parking spaces).

Very truly yours,



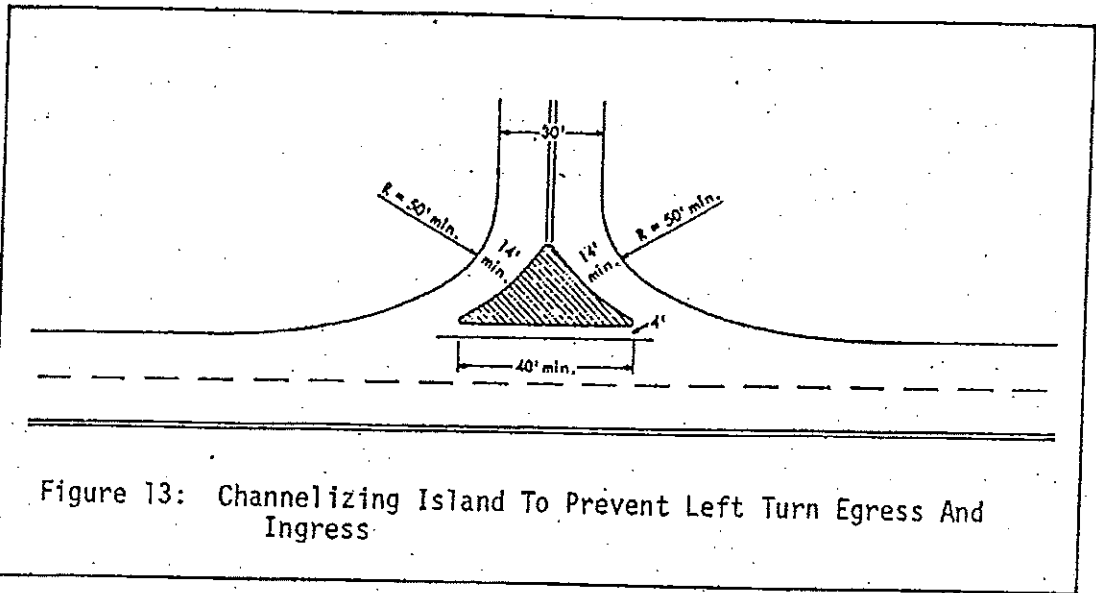
David A. Sawicki  
Executive Director

Enclosure

cc: Mr. Matthew Hart – townmngn@mansfieldct.org  
Mr. Michael Ninteaume – ninteaume@mansfieldct.org  
Mr. Mark N. Paquette – director@wincog.org  
Planning and Zoning Office - Please note last paragraph

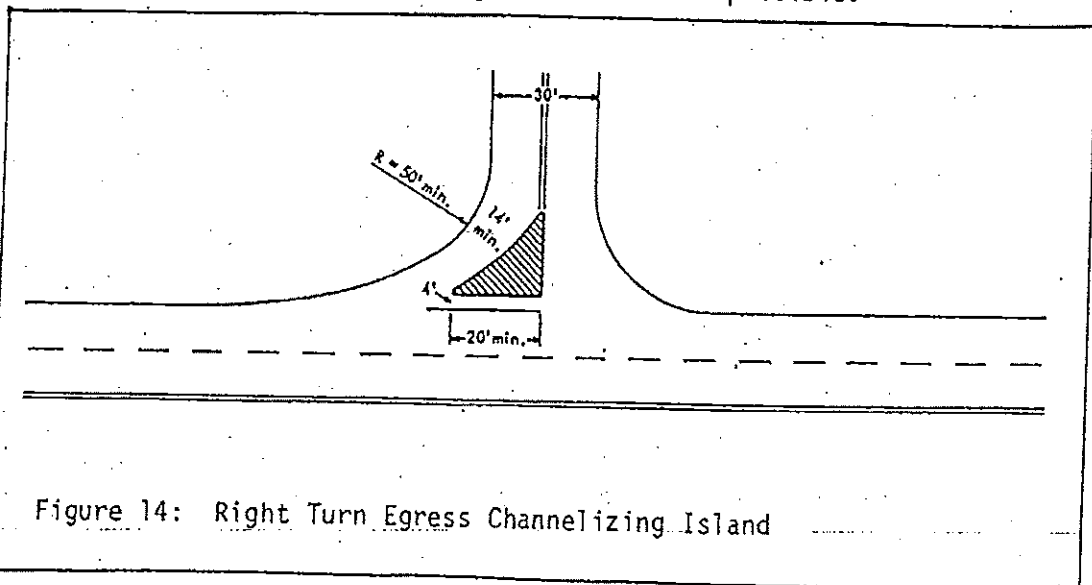
In both of the cases shown above, the island has the function of preventing left turns. Therefore, there must be some other means of either access or egress from the property as the case may be. The prevention of left turns will provide a significant reduction in conflict points.

The two types of islands can be combined, as shown below.



**Warrants:** These techniques can be employed on undivided highways with speeds of 30-45 mph, ADT greater than 5,000 vehicles, and driveway volumes of at least 1,000 vehicles per day. Prohibited turns should number less than 100 vehicles per day.

A right-turn egress channelizing island is also possible.



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**TOWN OF MANSFIELD**  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

LINDA M. PAINTER, AICP, DIRECTOR

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**Memo to:** Planning and Zoning Commission  
**From:** Linda M. Painter, AICP, Director of Planning and Development  
**Date:** December 29, 2011 *[Signature]*  
**Subject:** Freedom Green Cease and Desist Order

On November 7, 2011, the Commission adopted a motion requiring submission of the following information to allow construction for certain buildings at Freedom Green to continue:

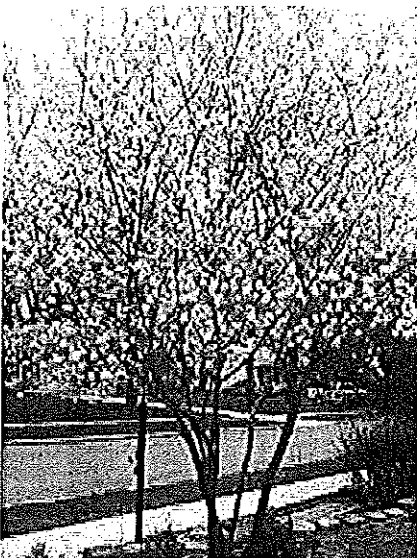
*... a grading plan that minimizes the physical height and a landscape plan designed by a Registered Landscape Architect that minimizes the visual impact of the height of the buildings constructed at 29, 30, 31 and 32 Liberty Drive (Building "A") and at 33, 34, 35 and 36 Liberty Drive (Building "B"), in compliance with the Zoning Regulations of the Town of Mansfield and State law to the satisfaction of the Planning and Zoning Commission*

In accordance with the above requirements, the applicant submitted the following documents for review:

- A grading plan dated 12/16/2011 prepared by Robert J. Amantea, Registered Land Surveyor
- A landscaping plan revised through 12/15/2011 prepared by The Minutti Group Landscape Architects

**Landscaping Plan**

The proposed landscape plan uses Mugo Pines and Shadblows to accomplish the goal of minimizing the visual height of the building. Samples of these species are shown below for reference:



*Left: Shadblow  
Below: Mugo Pine*



After reviewing the plan, staff suggests that the plantings in the landscape island in the middle of the driveway for building A be changed from 4 Mugo Pines to a Shadblow Tree. Additionally, the Shadblow tree proposed to the south of Building B needs to be labeled.

#### Grading Plan

In response to the Commission's motion, the applicant has attempted to reduce the height of the buildings through limited re-grading at the front and sides of the buildings. However, after conferring with the Building Official, it appears that these proposed grade changes would conflict with State Building Code requirements in several locations. For example, the proposed elevation of 262 feet south of Building A would place the final elevation higher than the Finished Floor Elevation of 261.9 feet. A minimum of 6" pitch away is required within 10 feet of the building. Additionally, any wood structural members within 6 inches of soil must be decay resistant. Footing drains for habitable areas may also be necessary. The Building Official typically inspects for these types of drainage issues as the building is being constructed, however, in this case, such issues would not have been identified during the initial construction process as the changes are only now being proposed.

Given the range of Building Code issues that could be triggered by these proposed changes and the limited impact those changes would have on the apparent height of the buildings, staff recommends that no changes to the grading to the front and sides of the buildings be made. While there appear to still be a couple of drainage issues that the applicant will need to address, particularly between Buildings A and B (potential need for a drainage swale leading to the rear of the buildings), the proposed re-grading appears to create more problems for long term surface drainage around the structures than it would solve. Additionally, after further review the Zoning Agent has determined that Building A does conform to the maximum height allowed of 40 feet; as such, grading is not needed to address what was originally thought to be a 9 inch violation of the maximum height requirement.

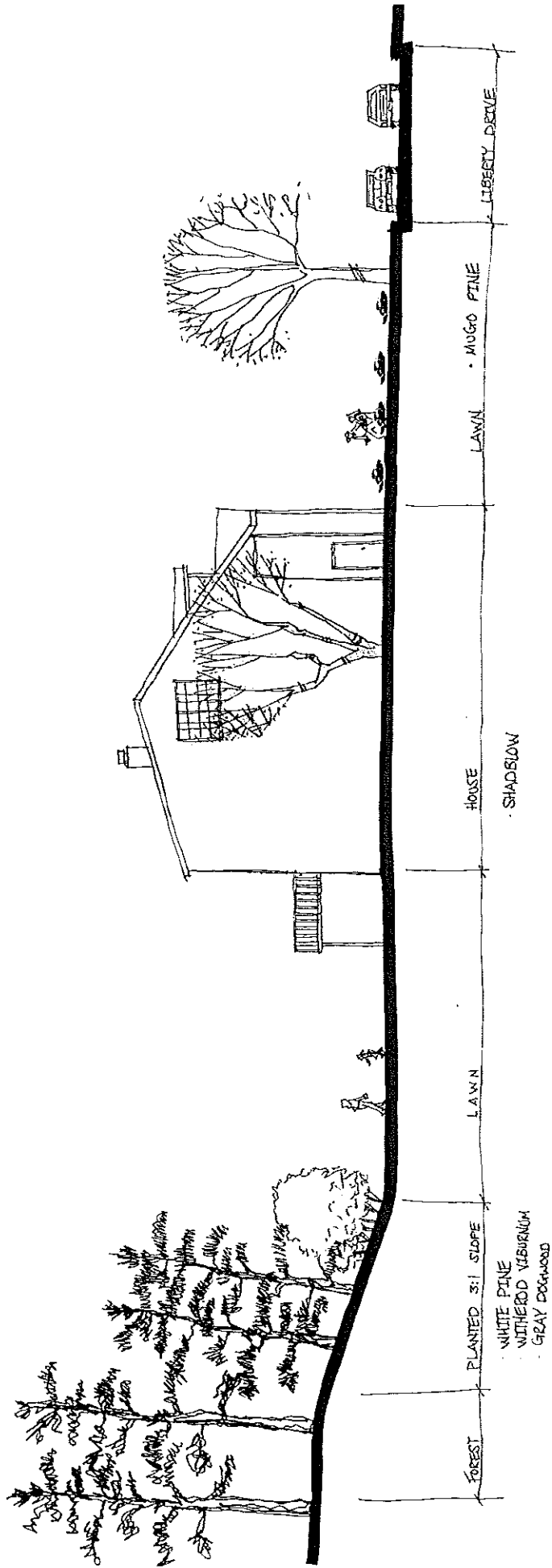
The grade changes proposed the rear of the buildings, adjacent to the emergency access drive are appropriate and should be made to soften the slope. The builder is encouraged to meet with the Assistant Building Official to review the existing grades identified on this plan to identify any changes to building or surface drainage that may be required to comply with Building Code requirements.

#### **SUGGESTED MOTION**

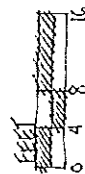
\_\_\_\_\_ MOVES, \_\_\_\_\_ SECONDS THAT THE PROPOSED GRADING PLAN DATED 12/16/2011 AND LANDSCAPE PLAN DATED 12/15/2011 BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

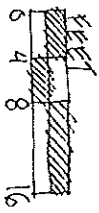
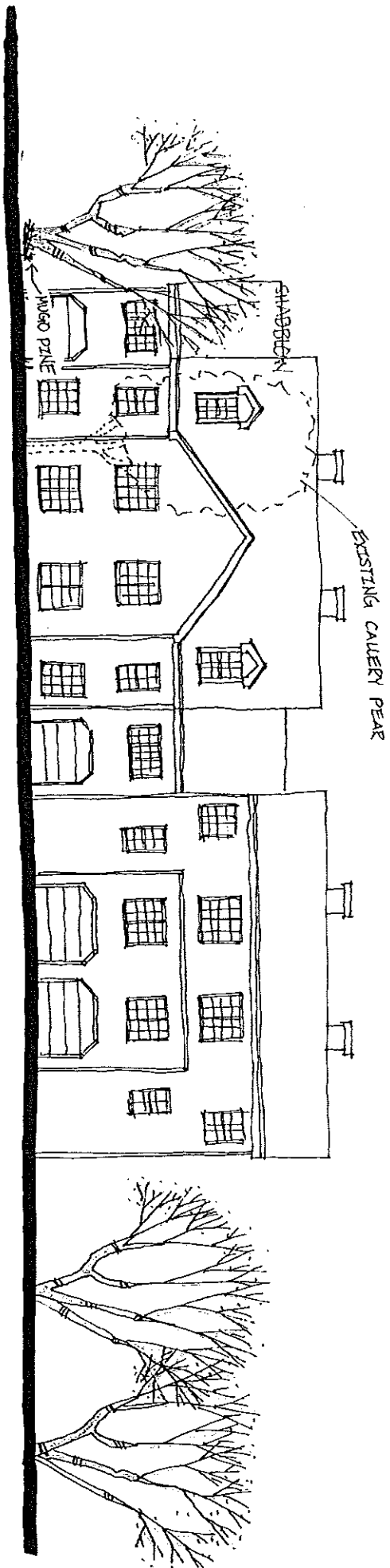
- THE LANDSCAPE PLAN BE REVISED TO LABEL THE SHADBLOW TREE LOCATED TO THE SOUTH OF BUILDING B; CHANGE THE PROPOSED MUGO PINES IN THE DRIVEWAY LANDSCAPE AREA OF BUILDING A TO A SHADBLOW TREE, AND THAT THE FINAL PLAN BE SIGNED AND SEALED BY REGISTERED LANDSCAPE ARCHITECT THAT PREPARED THE PLAN (PETER MINIUTTI).
- THE GRADING PLAN BE REVISED TO ELIMINATE PROPOSED GRADE CHANGES TO THE FRONT AND SIDES OF STRUCTURES A AND B.
- ANY CHANGES TO THE GRADING PLAN NEEDED TO COMPLY WITH SURFACE DRAINAGE REQUIREMENTS OF THE STATE BUILDING CODE SHALL BE SUBMITTED TO THE ZONING AGENT FOR INCLUSION IN THE PROJECT FILE.

UPON SUBMISSION OF THE REVISED PLANS AND APPROVAL BY THE DIRECTOR OF PLANNING AND DEVELOPMENT THAT THE PLANS HAVE COMPLIED WITH THE ABOVE CONDITIONS, THE ZONING AGENT SHALL BE AUTHORIZED TO LIFT THE CEASE AND DESIST ORDER ON BOTH BUILDING A AND BUILDING B.



# SIDE ELEVATION

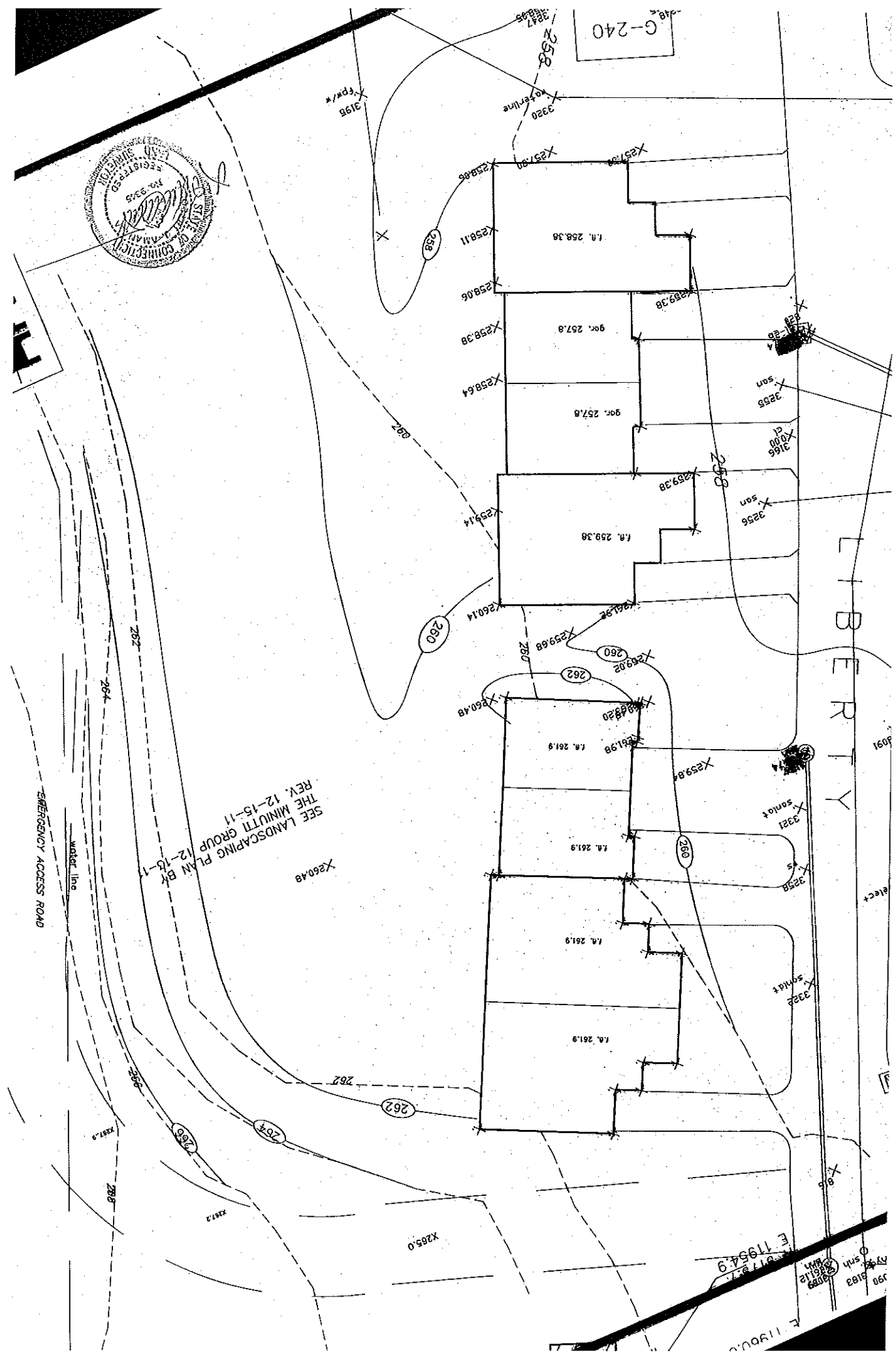




# FRONT ELEVATION

12132011 revised 12152011

The Mohrli Group is a multi-disciplinary design firm 11 Storrs Heights Road Storrs, Connecticut 06268





## **RESPONSES TO QUESTIONS REGARDING THE USE OF UNDERGROUND ELECTRIC TRANSMISSION CABLES IN THE TOWN OF MANSFIELD**

CL&P has a responsibility to propose the least cost, viable solution to meet the reliability needs of the transmission system. As such, whenever possible, CL&P's construction proposals include building overhead transmission lines using existing rights-of-way. In most cases, construction of overhead lines within existing rights-of-way minimizes cost, environmental impacts, and disruption to local communities.

As part of Connecticut's siting process, CL&P must also include potential alternatives to its proposed route and/or configurations in its Application to the Connecticut Siting Council (CSC) based on CSC's Application Guide. In its Application to the CSC for the Connecticut portion of the Interstate Reliability Project (delivered to the town on December 22, 2011), CL&P provides, as potential alternatives, the development of the new transmission line in an underground cable configuration for both the project as a whole and in conjunction with the evaluation of variations to certain portions of the route (refer to Volume 1A of the Application, Sections 14 and 15). The "all underground" cable system route alternatives are detailed in Section 14, whereas the route variations are discussed in Section 15.

Three of the route variations evaluated by CL&P included either underground cable-system alternatives along portions of the transmission line right-of-way (ROW) in Mansfield (see the Mansfield Underground Variation and the Mount Hope Underground Variation in Sections 15.2 and 15.3) or an underground cables configuration that would avoid Mansfield entirely by constructing the new transmission line underground through the towns of Lebanon, Windham, and Chaplin.

In addition, in Section 14, CL&P provides detailed information regarding the factors that must be considered in planning, designing, and routing underground transmission cable systems; Appendix 14A includes a further "tutorial" that describes underground cable systems. Appendix 15A includes a description of the potential environmental effects associated with the development of overhead (on new ROW) and underground line-route variations; this appendix also includes photographs of the typical line transition stations that would be required at both ends of a new 345-kilovolt (kV) cable system and cross-sections that generally illustrate where an underground cable system would be constructed within CL&P's ROW.

The following responses to questions raised at the Planning and Zoning Board meeting are based on the information that CL&P provided in its Siting Council Application regarding underground cable systems and routing.

### **1. What would it cost to bury the new 345-kV transmission line for the entire length through Mansfield?**

As discussed in the Application (page 14-43), CL&P identified Mansfield Hollow Lake as a difficult, if not insurmountable, obstacle in terms of both regulatory approvals and underground cable-system construction. Therefore, CL&P does not identify any alternative underground route across the Mansfield Hollow area of the Town of Mansfield and has not calculated a cost for an all-underground route through the entire 6.4 miles of ROW in Mansfield.

However, CL&P did evaluate an underground route variation – the Willimantic South Underground Variation – that would avoid the construction of the new 345-kV transmission line through the towns of Columbia, Coventry, and Mansfield (refer to CL&P's Siting Council Application, Volume 1A, Section

15.5.3). This 10.7-mile route Variation would extend south – southeast from the Card Street Substation and would be located mainly adjacent to or along road ROWs in the towns of Lebanon, Windham, and Chaplin. The cost of this Variation, compared to the cost of the portion of the proposed overhead line that it would replace, is summarized in the following table and is described in detail in Section 15.5.3.7 of the Application.

**Cost Comparison: Overhead Line vs. Underground Transmission Cable:  
Willimantic South Underground Variation**

<b>Cost of CL&amp;P Proposed Overhead Line Segment to be Replaced (11.6 miles)</b>	<b>Cost of Willimantic South Underground Variation (10.7 miles)</b>
\$60.8 Million	\$325.9 Million

The Application (Volume 1A, Section 14.3.1.3) provides a detailed explanation of why the capital costs of underground cable systems are typically much higher than the costs of overhead transmission lines.

Also critical to the cost comparison is how these extra costs for an underground cable system would be allocated to Connecticut electric consumers. The Interstate Reliability Project is expected to qualify for inclusion in New England regional transmission rates. As a result, the cost of the Project would be shared by consumers throughout New England, based on each electric utility company's share of the regional electric load. Connecticut accounts for approximately 27% of the New England load. Therefore, Connecticut consumers would bear approximately 27% of the project cost included in regional rates, with the other 73% of the cost of the Project being paid by consumers in the rest of New England.

However, the recovery of project costs through regional rates is not automatic. Only costs determined by ISO-NE to be eligible for regionalization according to specific federal tariff provisions would be included in regional rates. Experience has shown that when a transmission line (or a line segment) that would normally be constructed overhead, in conformity with good utility practice, is instead constructed underground, ISO-NE does not allow the extra costs of underground line construction to be included in regional rates. Instead, such extra costs are "localized" and must be borne solely by consumers in the area in which the underground system is situated.

In Connecticut, the effect of localizing excess underground cable-system costs is that in-state consumers would bear 27% of the cost of an overhead line (or segment), *plus* 100% of the incremental cost of an underground cable system.

This means that, for example, if CL&P were to build an underground cable system that cost \$100 million instead of building an overhead line that cost \$10 million, the incremental \$90 million would be localized and likely paid for by Connecticut customers. Therefore the costs borne by Connecticut consumers for the underground cable system would be approximately 34 times more than that of the overhead line, as shown below.

Cost of Overhead line:                      \$10 million x 27% = \$2.7 million

Incremental Cost of UG Cables: (\$100M - \$10M) x 100% = \$90.0 million

Total Cost to Connecticut Consumers for UG Cables: \$ 92.7 million

\$92.7 million divided by \$2.7 million = 34 times



**2. Where would the 345-kV line transition stations be located in this configuration and what do transition stations look like?**

As discussed above, CL&P has not evaluated an underground cable-system configuration for the transmission line through all of the Town of Mansfield. The Application considers three underground cable-system alternatives along portions of the transmission line right-of-way (ROW) in Mansfield: the Mansfield Underground Variation, the Mt. Hope Underground Variation and the Willimantic South Underground Variation.

Typically, line transition stations (visually similar to electric substations) must be located on each end of an underground cable segment to interconnect the underground cables to the overhead line. The Mansfield and Mt. Hope Underground Variations each would require two transition stations at each end of the underground segment because neither end at a pre-existing substation. The Willimantic South Underground Variation would require a transition station at one end plus additional equipment at CL&P's substation in Lebanon where the underground segment for that variation would naturally terminate. As discussed in the Application (Volume 1A, Section 14.3.1.1), each transition station would require the acquisition of approximately 4 acres of land from private landowners. Each of these sites would be developed and converted to utility purposes for the life of the project.

Figure 15A-1 (refer to Volume 1A, Section 15, Appendix 15A, page 15A-21 of CL&P's Siting Council Application) provides a schematic drawing of a typical 345-kV line transition station for three underground cable sets connecting to one overhead line. This is the type of line transition station that would be required for the project. Representative photographs of smaller 345-kV line transition stations with two sets of underground cables connecting to an overhead line also are included in CL&P's Siting Council Application, Volume 1A, Section 15, Appendix 15A (refer to Figures 15A-2 and 15A-3 on pp. 15A-22 and 15A-23, respectively).

**3. How would CL&P build an underground cable system through Mansfield Hollow, including across Mansfield Hollow Lake?**

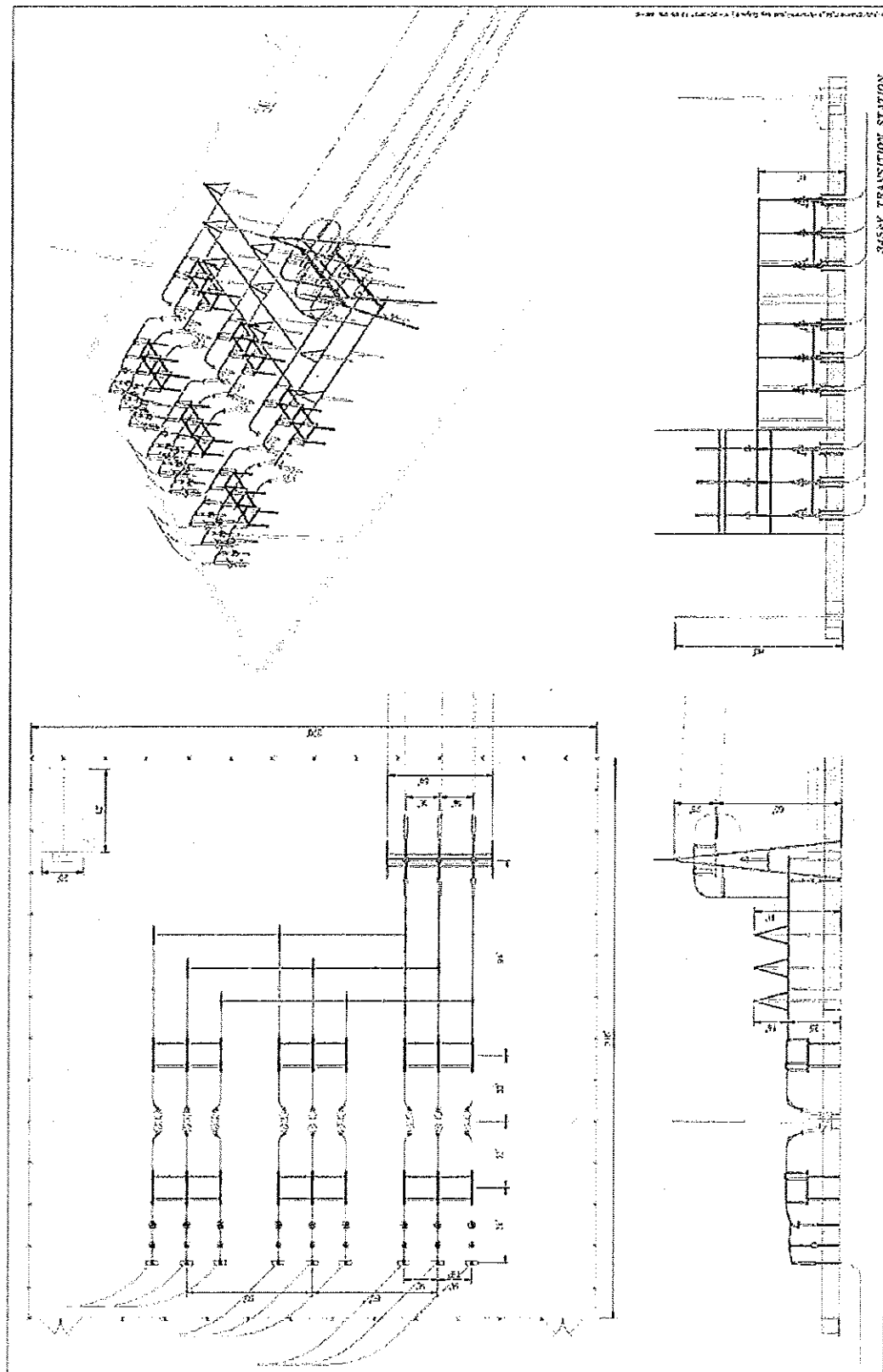
CL&P's Siting Council Application (Volume 1A, Section 14.3.3.3) describes how an underground cable-system would be constructed along CL&P's overhead transmission line ROWs in general. However, as discussed on page 14-43 of the Application, CL&P has identified Mansfield Hollow Lake as a difficult, if not insurmountable, obstacle in terms of both regulatory approvals and underground cable-system construction. Therefore, CL&P does not identify any alternative underground route across the Mansfield Hollow area of the Town of Mansfield.

**4. What would the vegetation clearing requirements be for an in-ROW underground cable system configuration?**

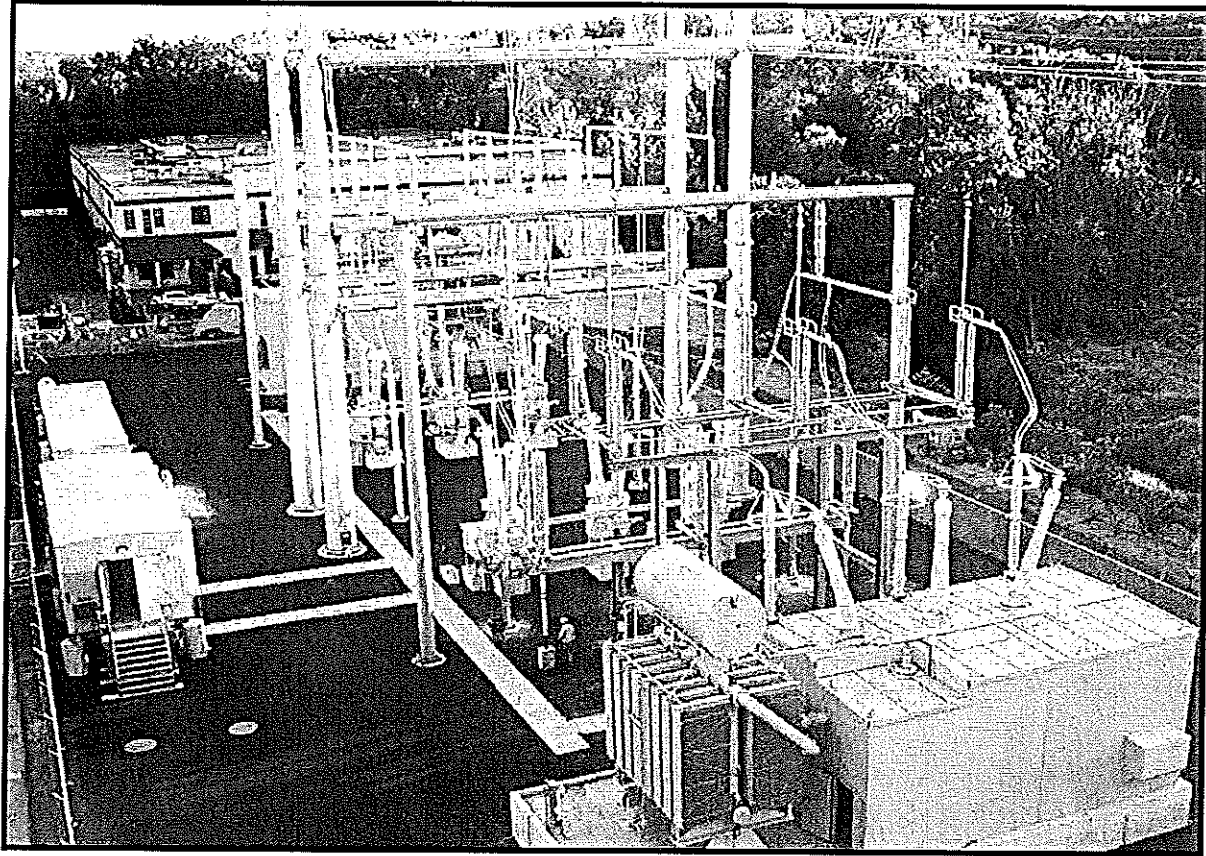
Sections 14.3.2.2, 14.3.2.3, 14.3.2.5, and 14.3.2.9 of Volume 1A of the Application summarize the ROW requirements and construction procedures (including vegetation clearing) for installing a 345-kV underground cable system, including line transition stations, along transmission line ROWs. Figure XS-UG-2 (refer to page 15B-3 of Appendix 15B, Volume 1A, Section 15 of CL&P's Siting Council Application) provides a schematic of the location of the trench and concrete-encased ducts for an underground cable system within CL&P's existing ROW. A Typical Underground Cable System Layout at Splice Vault Locations is provided on page 15B-2 of Appendix 15B). Splice vaults are necessary to connect consecutive lengths of each set of three underground line cables together and are roughly the size of a 30-foot long delivery truck.

As described in Section 14.3.2.2 (and shown on XS-UG-2 in Appendix 15B), in order to install an underground cable system within CL&P's existing ROW, the duct bank would be located 15 feet horizontally from the outside conductor of the existing 345-kV transmission line. A 40-foot-wide construction work area typically would be required to excavate and install the duct bank. Within this 40-foot-wide area, all vegetation would be removed and the ROW would have to be graded to accommodate an access road for heavy construction equipment. The construction work space also would have to accommodate spoil piles from the trench excavation. In areas where the ROW is sloped, additional construction work space may be required. The access road would be permanent (since access is required along the entire cable-system route) and would involve the long-term conversion of vegetation to gravel-type road use.

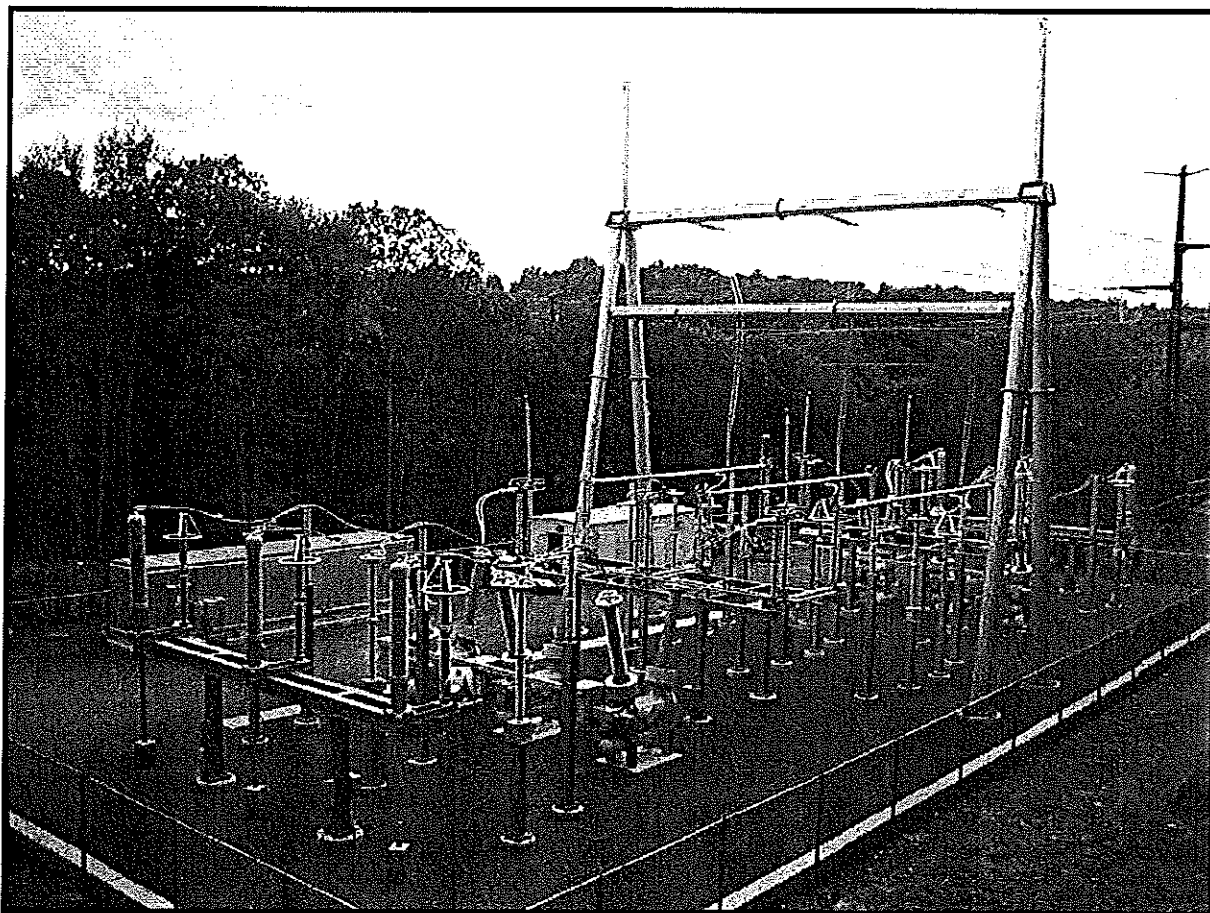
In addition to the 40-foot-wide (typical) construction work space for the duct bank and access road, splice vaults would typically have to be installed at 1,600 foot intervals along the route. These splice vaults would be located outside of the 40-foot-wide construction work area and would require additional vegetation clearing and likely additional real estate or easement rights from abutters to the line route.



**Figure 15A-2: 345-kV Line Transition Station with Shunt Reactors**



**Figure 15A-3: 345-kV Line Transition Station with no Shunt Reactors**



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**TOWN OF MANSFIELD**  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

---

LINDA M. PAINTER, AICP, DIRECTOR

**Memo to:** Planning and Zoning Commission  
**From:** Linda M. Painter, AICP, Director of Planning and Development  
**Date:** December 29, 2011 *[Signature]*  
**Re:** Proposed Overhead Utility Line, Hawthorne Lane Conservation Easement Area  
PZC File #1177

As a follow-up to my December 15, 2011 memo and the Commission discussion on December 19, 2011, the following motion is suggested regarding the change to the Hawthorne Lane Conservation Easement. The property owners have retained Datum Engineering to identify the existing area to be removed from the Conservation Easement as well as the proposed area to be added to the conservation easement (see attachment). The proposed conservation easement area will contain 0.64 acres, double the size of the area being removed from the easement. The Conservation Commission reviewed this request at their December meeting and recommended approval of the exchange. Abutting property owners were notified of the pending request; to date no comments have been received.

**Suggested Motion**

\_\_\_\_\_ MOVES, \_\_\_\_\_ SECONDS, THAT THE PLANNING AND ZONING COMMISSION HEREBY RECOMMENDS THAT THE TOWN COUNCIL AMEND THE EXISTING CONSERVATION EASEMENT FOR THE HAWTHORNE LANE SUBDIVISION TO ELIMINATE THE 0.32 ACRES LOCATED TO THE WEST OF THE HAWTHORNE LANE CUL-DE-SAC AS DEPICTED ON THE ATTACHED MAP AND ADD THE 0.64 ACRE LOCATED ALONG THE NORTHERN BOUNDARIES OF THE LOTS ADDRESSED AT 21 AND 25 HAWTHORNE LANE AS DEPICTED ON THE ATTACHED MAP. THE CHANGE TO THE CONSERVATION EASEMENT SHOULD BE CONTINGENT UPON CONNECTICUT SITING COUNCIL APPROVAL OF THE TRANSMISSION LINE ROUTE PROPOSED AS PART OF THE INTERSTATE RELIABILITY PROJECT AND SPECIFICALLY THE HAWTHORNE LANE ALTERNATIVE. THE PROPERTY OWNERS SHALL BE RESPONSIBLE FOR RETAINING AN ATTORNEY TO PREPARE THE AMENDMENT TO THE CONSERVATION EASEMENT AS WELL AS A SURVEYOR/ENGINEER TO PREPARE REVISED LEGAL DESCRIPTIONS.





Kurt Heidinger  
1 Stage Rd.  
Westhampton, MA  
01027

Mansfield Conservation Commission  
Mansfield Town Council  
Audrey P. Beck Municipal Building  
4 South Eagleville Road  
Mansfield, CT  
06268

12.14.11

Dear Mansfield Conservation Commission and Mansfield Town Council,

As the Mansfield Conservation Commission is "charged with advising the Town Council, the Planning and Zoning Commission, and other Town agencies and officials on policies and issues relating to the development, conservation, supervision, and regulation of natural resources (including water resources) within the Town of Mansfield," I am writing in the hopes of clarifying, by stimulating recorded discussion about, exactly what enforcement powers the CT Dept. of Energy and Environmental Protection has as in Storr's "Aquifer Protection Areas."

I have attached the Attorney General's formal opinion of 2000, that says the University of Connecticut is not a water company. This opinion is of importance to the Commission and the Council, because it organizes the legal responsibilities and obligations of government agencies empowered by statutes to regulate the management of public water systems, like the one that provides water to Mansfield Town Hall, and private businesses and citizens in Storrs.

The opinion is of importance to the Commission and Council, also, because the Attorney General acknowledged that it placed the publicly-owned water system in Storrs into a nebulous legal and regulatory status, that has no parallel in the state. As he pointed out:

A clear and long settled principle of law provides that the State is not subject to a

statutory requirement or responsibility unless there is a specific reference to the State or its agencies in the statute. State v. Shelton, 47 Conn. 400 (1879); Charter Communications Entertainment v. University of Connecticut, 2000 Conn. Super. LEXIS 770. In this case, the definition of "water company" set forth in Conn. Gen. Stat. § 25-32a does not specifically refer to the State or its agencies and it is, therefore, inapplicable to them.

A result of the opinion is that the publicly-owned water system in Storrs lies outside the "water company" statutes. For this precisely this reason, the Attorney General and Representative Denise Merrill supported legislation raised by Senator Donald Williams to return the publicly-owned water system in Storrs to the regulatory regime standard and normal for every other public drinking water source, urban or rural, in the state. This legislation, and another similar bill raised by Senator Williams, failed to pass and become law.


Given your capacities as representatives of Mansfield's interests in ensuring that the publicly-owned water it pays for & consumes is regulated according to state norms,

do you know if the University of Connecticut is specifically referred to in CT's Aquifer Protection statutes?

If it isn't, does that mean that the Attorney General is correct:

the DEEP has no statutory power to enforcement its regulations in or over the "Aquifer Protection Areas" in Storrs?

Please accept my thanks for your consideration in contemplating and answering these questions,

  
Kurt Heidinger



Governor Dannel P. Malloy 1

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## GEORGE JEPSEN OFFICE OF THE ATTORNEY GENERAL

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### Attorney General's Opinion

Attorney General, Richard Blumenthal

November 29, 2000

Phillip E. Austin  
President  
University of Connecticut  
352 Mansfield Road  
U-48  
Storrs, CT 06269

Dear President Austin:

Watershed lands are among Connecticut's most precious natural resources -- a legacy for future generations that we have a responsibility to preserve and protect. Besides their vital role in protecting the purity of the state's water supplies, the natural beauty of these lands, undisturbed and tranquil, provides a refuge and respite from development and commercialism. These pristine lands are irreplaceable; once developed they are forever lost.

For these reasons, almost 25 years ago the Connecticut legislature took direct and significant action to stop the loss of these lands, setting forth a primary policy and objective to preserve and conserve watershed land as open space. The State's policy was embodied in a moratorium on utility company land sales, a land classification system and a requirement of prior notification of proposed land sales to the State, municipalities and private conservation groups, providing them with a first option to purchase such property. Twice, this system was successfully defended against constitutional attack, all the way to the United States Supreme Court. The State's commitment to these lands has been consistently renewed yearly through significant appropriations made by the Connecticut legislature for their purchase and preservation.

As part of the program known as UConn 2000, a vital component of the State's commitment to higher education, the University of Connecticut has undertaken development and expansion of its campus to increase and enhance the educational opportunities that the University offers. This extremely important program has involved development of watershed land where the University is situated. As a consequence of the continuation of the UConn 2000 program, you have asked the Department of Public Health and this office whether, as a matter of law, the University is a "water company" as that term is defined in the General Statutes, subjecting the University's watershed land to the statutory protections and restrictions imposed on private utility companies.

According to the plain language of the law, the University is not a "water company" within the narrow definition contained in the statute, that is, for purposes of the State's watershed land development restrictions. A clear and long settled principle of law provides that the State is not subject to a statutory requirement or responsibility unless there is a specific reference to the State or its agencies in the statute. State v. Shelton, 47 Conn. 400 (1879); Charter Communications Entertainment v. University of Connecticut, 2000 Conn. Super. LEXIS 770. In this case, the definition of "water company" set forth in Conn. Gen. Stat. § 25-32a does not specifically refer to the State or its agencies and it is, therefore, inapplicable to them. In contradistinction, the State is specifically referenced in Conn. Gen. Stat. § 25-32(a), as amended by Public Act 00-90, subjecting the University to the State's regulation of the purity and adequacy of the water that it supplies to its students.

While as a legal matter the University is not subject to the panoply of valuable protections established by the State to preserve watershed property, the University should carefully consider whether each step of continuing development at the University is consistent with the State's long and firmly established statutory policy to conserve and preserve watershed and open space land. I am confident that these significant state policies, designed to further both education and the environment, can be harmonized for the benefit of all Connecticut citizens. Indeed, protecting natural resources -- watershed areas specifically and the environment generally -- can enhance your educational mission by setting a good example of advancing the spirit of the law, as well as complying with its letter.

Very truly yours,

RICHARD BLUMENTHAL  
ATTORNEY GENERAL

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